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federal register

Thursday
May 16, 1985

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Animal Diseases
Animal and Plant Health Inspection Service

Animal Drugs
Food and Drug Administration

Authority Delegations (Government Agencies)
Immigration and Naturalization Service

Aviation Safety
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Banks, Banking
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Fisheries
National Oceanic and Atmospheric Administration

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Grant Programs—Education
Education Department

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Interstate Commerce Commission

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Federal Home Loan Bank Board

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Title 3—

The President

Executive Order 12514 of May 14, 1985

Prescribing the Order of Succession of Officers To Act as Secretary of Defense, Secretary of the Army, Secretary of the Navy, and Secretary of the Air Force

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 3347 of title 5, United States Code, it is hereby ordered as follows:

Part I. *Succession to the Position of Secretary of Defense.*

In the event of the death, disability, or absence of the Secretary of Defense, the incumbents in the Department of Defense positions listed below shall succeed to the position of, and act as, Secretary of Defense in the order indicated:

1. Deputy Secretary of Defense.

2. Secretary of the Army.

3. Secretary of the Navy.

4. Secretary of the Air Force.

5. Under Secretary of Defense for Policy.

6. Under Secretary of Defense for Research and Engineering.

7. Assistant Secretaries of Defense and the General Counsel of the Department of Defense, in the order fixed by their length of service as such.

8. Under Secretaries of the Army, the Navy, and the Air Force, in the order fixed by their length of service as such.

9. Assistant Secretaries of the Army, the Navy, and the Air Force, in the order fixed by their length of service as such.

Precedence within a particular group between or among two or more officers having the same date of appointment shall be as determined by the Secretary of Defense at the time of appointment.

Part II. *Succession to the Position of Secretary of the Army.*

In the event of the death, disability, or absence of the Secretary of the Army, the officers designated below shall succeed to the position of, and act as, Secretary of the Army in the order indicated:

1. Under Secretary of the Army.

2. Assistant Secretaries of the Army, in the order fixed by their length of service as such.

3. Chief of Staff, United States Army.

4. Vice Chief of Staff, United States Army.

5. Commanding General, U.S. Army Forces Command.

Part III. *Succession to the Position of Secretary of the Navy.*

In the event of the death, disability, or absence of the Secretary of the Navy, the officers designated below shall succeed to the position of, and act as, Secretary of the Navy in the order indicated:

1. Under Secretary of the Navy.

2. Assistant Secretaries of the Navy, in the order prescribed by the Secretary of the Navy, or if no order is prescribed by the Secretary, then in the order fixed by their length of service as such.

3. Chief of Naval Operations.

4. Vice Chief of Naval Operations.

Part IV. *Succession to the Position of Secretary of the Air Force.*

In the event of the death, disability, or absence of the Secretary of the Air Force, the officers designated below shall succeed to the position of, and act as, Secretary of the Air Force in the order indicated:

1. Under Secretary of the Air Force.

2. Assistant Secretaries of the Air Force, in the order fixed by their length of service as such.

3. Chief of Staff, United States Air Force.

4. Vice Chief of Staff, United States Air Force.

5. The senior Deputy Chief of Staff who is not absent or disabled.

6. The Commander, Air University.

Part V. *Variations in the Order of Succession.*

Without regard to any other part of this Order, except Part VI, the President, or the person acting as President under section 19 of title 3, United States Code, may, in the event of the death, disability, or absence of the Secretary of Defense, appoint any officer designated in Part I of this Order to succeed to the position of, and act as, Secretary of Defense; and that person may, in the event of the death, disability, or absence of the Secretary of a Military Department, appoint any officer designated in the part of this Order that relates to the order to succession in the Department concerned to succeed to the position of, and act as, the Secretary of that Department.

Part VI. *Temporary Nature of Succession/Acting Capacity.*

Succession to office pursuant to this Order shall be on a temporary or interim basis and shall not have the effect of vacating the statutory position held by the successor. An officer shall not succeed to any position under this order if the position that he occupies entitling him so to succeed is held by him in an acting capacity only.

Part VII. *Revocation of Prior Executive Order.*

Executive Order No. 10820 of May 18, 1959, is hereby revoked.

Ronald Reagan

THE WHITE HOUSE,
May 14, 1985.

[FR Doc. 85-12036
Filed 5-15-85; 10:29 am]
Billing code 3195-01-M

Presidential Documents

Executive Order 12515 of May 14, 1985

Amending the Generalized System of Preferences

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Title V of the Trade Act of 1974 (19 U.S.C. 2461 *et seq.*), as amended, section 604 of the Trade Act of 1974 (19 U.S.C. 2483), and section 503(a)(2)(A) of the Trade Agreements Act of 1979 (93 Stat. 251), and as President of the United States of America, in order to provide for the continuation, to the greatest extent possible, of preferential treatment under the Generalized System of Preferences (GSP) for articles that are currently eligible for such treatment and that are imported from countries designated as beneficiary developing countries, consistent with the changes to the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), which have resulted from the recent enactment of the Trade and Tariff Act of 1984 (Public Law 98–573), it is hereby ordered as follows:

Section 1. In order to take into account the changes made by the Trade and Tariff Act of 1984, Annex II of Executive Order No. 11888 of November 24, 1975, as amended, listing articles that are eligible for benefits of the GSP when imported from any designated beneficiary developing country, is further amended as set forth in Annex 1 to this Order.

Sec. 2. Annex III of Executive Order No. 11888, as amended, listing articles that are eligible for benefits of the GSP when imported from all designated beneficiary countries except those specified in general headnote 3(c)(iii) of the TSUS, is further amended as set forth in Annex II to this Order.

Sec. 3. General headnote 3(c)(iii) of the TSUS, listing articles tht are eligible for benefits of the GSP except when imported from the beneficiary countries listed opposite those articles, is modified as set forth in Annex III to this Order.

Sec. 4. (a) The amendments made by the paragraphs numbered (b) in Annex I, Annex II, and Annex III to this Order shall be effective with respect to articles both: (1) imported on or after January 1, 1976, and (2) entered, or withdrawn from warehouse for consumption, on or after January 1, 1985.

(b) The remaining amendments made by this Order shall be effective with respect to articles both: (1) imported on or after January 1, 1976, and (2) entered, or withdrawn from warehouse for consumption, on or after November 14, 1984.

Ronald Reagan

THE WHITE HOUSE,
May 14, 1985.

Billing code 3195-01-M

ANNEX I

Annex II of Executive Order No. 11888 of November 24, 1975, as amended, is further amended by--

(a)(1) deleting the following TSUS item numbers:

137.84	141.70	670.20
138.40	141.78	792.22

and

(2) inserting in numerical sequence the following TSUS item numbers:

118.35	670.21	792.26
118.45	792.24	

and

(b)(1) deleting the following TSUS item numbers:

684.64	685.20	685.34	708.09
685.10	685.26	685.36	708.29

and

(2) inserting in numerical sequence the following TSUS item numbers:

684.65	684.90	685.37	708.10
684.66	685.06	685.38	708.30
684.67	685.22	707.90	

ANNEX II

Annex III of Executive Order No. 11888 of November 24, 1975, as amended, is further amended by--

(a) inserting in numerical sequence the following TSUS item number:

653.38

and

(b)(1) deleting the following TSUS item numbers:

684.62	685.29	688.15
685.24	685.40	688.43

and

(2) inserting in numerical sequence the following TSUS item numbers:

684.57	685.14	685.25	685.39	688.18
684.58	685.16	685.28	685.40	688.41
684.59	685.18	685.30	688.17	688.42
685.10	685.24	685.32		

ANNEX III

General headnote 3(c)(iii) of the TSUS is modified by--

(a) inserting in numerical sequence the following TSUS item number and country:

653.38	Taiwan

(b)(1) deleting the following TSUS item numbers and countries:

684.62	Hong Kong
	Taiwan
685.24	Hong Kong
	Republic of Korea
	Singapore
	Taiwan

ANNEX III--Con.

685.29	Hong Kong Republic of Korea Taiwan
685.40	Republic of Korea Taiwan
688.15	Mexico
688.43	Hong Kong Taiwan

and

(2) inserting in numerical sequence the following TSUS item numbers and countries:

684.57	Hong Kong Taiwan
684.58	Hong Kong Taiwan
684.59	Hong Kong Taiwan
685.10	Hong Kong Republic of Korea Taiwan
685.14	Hong Kong Republic of Korea Singapore Taiwan
685.16	Hong Kong Republic of Korea Singapore Taiwan
685.18	Hong Kong Republic of Korea Taiwan
685.24	Hong Kong Republic of Korea Taiwan
685.25	Hong Kong Republic of Korea Taiwan
685.28	Hong Kong Republic of Korea Taiwan
685.30	Hong Kong Republic of Korea Taiwan
685.32	Hong Kong Republic of Korea Taiwan
685.39	Republic of Korea Taiwan
685.40	Republic of Korea Taiwan
688.17	Mexico
688.18	Mexico
688.41	Hong Kong Taiwan
688.42	Hong Kong Taiwan

[FR Doc. 85-12039
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

Powers and Duties of Service Officers; Availability of Service Records

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds the positions of special agent, intelligence officer, and intelligence agent to the list of Service positions designated to exercise the powers and duties of an immigration officer.

EFFECTIVE DATE: May 16, 1985.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: 633–3048.

SUPPLEMENTARY INFORMATION: The Immigration and Naturalization Service is the only federal law enforcement agency which has not adopted the title of special agent for its investigator positions. Judicial officials have erroneously presumed that Service investigative responsibilities rest solely in the deportation process and Service officers have limited law enforcement powers. In order to sufficiently convey to the public and other agencies the authority and responsibilities of interior enforcement officers, the Service is adding the operational title of Special Agent to the list of positions authorized to exercise the powers and duties of an immigration officer.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary as this rule relates to agency management and personnel.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule does not have a significant impact on a substantial number of small entities.

This order is not a rule within the definition of section 1(a) of E.O. 12291 because it relates to agency organization, management or personnel.

List of Subjects in 8 CFR Part 103

Administrative practice and procedures, Authority delegation (government agencies), Organization and functions (government agencies).

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for Part 103 continues to read as follows:

Authority: Sec. 103 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103).

2. In § 103.1, paragraph (q) is revised to read as follows:

§ 103.1 Delegations of authority.

* * * * *

(q) *Immigration Officer.* Any immigration inspector, immigration examiner, border patrol agent, aircraft pilot, airplane pilot, helicopter pilot, deportation officer, detention officer, detention service officer, detention guard, investigator, special agent, intelligence officer, intelligence agent, general attorney, applications adjudicator, contact representative, or senior or supervisory officer of such employees is hereby designated as an immigration officer authorized to exercise the powers and duties of such officer as specified by the Act and this chapter.

* * * * *

Dated: May 7, 1985.

Raymond M. Kisor,

Associate Commissioner, Enforcement, Immigration and Naturalization Service.

[FR Doc. 85–11896 Filed 5–15–85; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 84–119]

Importation of Cheese

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations in 9 CFR Part 94, which impose prohibitions and restrictions on the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various animal diseases. Cheese has been exempt from these regulations. This document amends the regulations to provide that the cheese which is exempt from these regulations does not include cheese with liquid or cheese containing certain other items regulated under 9 CFR Part 94. This action is necessary to help ensure that cheese exempted from the regulations and offered for importation into the United States does not present a risk of introducing such animal diseases.

DATES: May 16, 1985. Written comments must be received on or before July 15, 1985.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, Hyattsville, MD 20782. Written comments may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. M.J. Gilsdorf, Import-Export Animals and Products Staff, VS, APHIS, USDA, Room 840, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8379.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 94 regulate the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various diseases, including rinderpest, foot-and-mouth disease (FMD),

viscerotropic velogenic Newcastle disease (VVND), African swine fever, hog cholera, and swine vesicular disease.

Prior to the effective date of this document, § 94.16(a) of the regulations provided that cheese, butter, and butteroil were exempt from the provisions of Part 94. Milk and milk products, other than cheese, butter, and butteroil, are subject to the provisions of § 94.16, which restrict the importation of certain milk and milk products originating in, or shipped from any country designated in the regulations as a country infected with rinderpest or FMD.

It is necessary to amend § 94.16(a) to provide that cheese exempt from the provisions of Part 94 does not include cheese with liquid. It has been determined, based on research and Departmental experience, that cheeses with liquid milk or milk products that had been added after processing, such as ricotta cheese and cottage cheese, may contain rinderpest or FMD virus if from a country infected with rinderpest or FMD. If cheeses with liquid are presented for entry into the United States, it is often impossible to tell upon visual inspection at the port of entry whether the liquid is milk or a milk product and whether the liquid had been added to the cheese after processing.

It was further intended under § 94.16(a) that cheese exempt from the provisions of Part 94 not include cheese containing items regulated by other sections of Part 94, unless the items are independently eligible for importation into the United States under Part 94. These items include, among other things, certain meat of cattle, sheep, other ruminants, or swine regulated because of rinderpest or FMD; carcasses of poultry, game birds, and other birds and parts or products thereof regulated because of VVND; and pork and pork products regulated because of African swine fever, hog cholera, or swine vesicular disease. It has been determined, based on research and Departmental experience, that items regulated by sections of Part 94 other than § 94.16 may present a risk of introducing one or more of the diseases listed above unless they comply with all of the provisions in Part 94 for importation into the United States.

Under the circumstances explained above, it is necessary to amend § 94.16 to provide that the cheese exempt from the provisions of Part 94 does not include cheese with liquid or cheese containing any items regulated by other sections of Part 94 unless the items are independently eligible under the provisions of Part 94 for importation into the United States.

Emergency Action

Dr. J.K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for a public comment period. It is necessary to make this amendment effective immediately in order to help protect animals from the threat of introduction and dissemination of rinderpest, FMD, VVND, African swine fever, hog cholera, and swine vesicular disease.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedure with respect to this emergency action are unnecessary and contrary to the public interest, and good cause is found for making this emergency action effective upon publication. Comments have been solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register**.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in accordance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this rule will not have a significant annual effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will have no significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

No significant change in the amounts of cheese imported into the United States is anticipated as a result of this action.

Under the circumstances explained above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products, African swine fever, Exotic newcastle disease, Foot-and-mouth disease, Hog cholera, Rinderpest, Swine vesicular diseases.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, 9 CFR Part 94 is amended as follows:

1. The authority for Part 94 is revised to read:

Authority: 19 U.S.C. 1306; 21 U.S.C. 111, 134a, 134b, 134c, and 134f; 7 CFR 2.17, 2.51, and 371.2(d), unless otherwise noted.

2. Paragraph (a) of § 94.16 is revised to read:

§ 94.16 Milk and milk products.

(a) The following milk products are exempt from the provisions of this part:

(1) Cheese, but not including cheese with liquid and not including cheese containing any item that is regulated by other sections of this part, unless such item is independently eligible for importation into the United States under this part;

(2) Butter; and

(3) Butteroil.

* * * * *

Done at Washington, D.C. this 9th day of May 1985.

G.J. Fichtner,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 85-11827 Filed 5-15-85; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563b

[No. 85-321]

Facilitation of Modified Conversions

April 30, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board is amending its regulations governing modified conversions of mutual insured institutions to stock form. The amendments are intended to facilitate the modified-conversion procedure and enhance its use as a capitalization vehicle.

EFFECTIVE DATE: June 11, 1985.

FOR FURTHER INFORMATION CONTACT: James C. Stewart, Senior Attorney, (202-

377-6457), J. Larry Fleck, Deputy Director, (202-377-6413), or Julie L. Williams, Director, (202-377-6459) Corporate and Securities Division, Office of the General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: In Resolution No. 84-655, dated November 16, 1984, the Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), proposed to amend its regulations governing modified conversions to the stock form of mutual thrift institutions whose deposits are insured by the Corporation ("insured institutions"). *Modified Conversions*, 49 FR 47271 (Dec. 3, 1984). The primary proposed revisions would have: (1) Amended the qualifications guidelines of 12 CFR 563b.36(b)(1) to allow applicants to recognize deferred loan losses and disregard appraised equity capital in determining whether the applicant's regulatory net worth is sufficiently low to justify a modified converson; (2) deleted the requirement that the modified conversion restore the institution to regulatory new-worth compliance on the basis of generally accepted accounting principles ("GAAP") and instead allow the use of regulatory accounting principles ("RAP") in this determination; and (3) allowed insured institutions pursuing modified conversions to limit the preemptive subscription rights of their account holders and other members. Upon reviewing the comment letters and other available information, the Board has determined to adopt these amendments substantially as proposed, with the changes discussed below.

Modified Conversion in General

The authority for the modified-conversion process derives from section 121 of the Garn-St Germain Depository Institutions Act of 1982, which allows the Board to approve stock conversions notwithstanding other provisions of state or federal law, when the Board determines that the converting institution faces severe financial conditions that threaten its stability and conversion is likely to imporve the institution's condition. 12 U.S.C. 1464(p) (1982). Under the Board's modified-conversion regulations, 12 CFR Part 563b, Subpart D (1985), mutual insured institutions experiencing such difficulties may undertake conversions in which the substantive and procedural rights granted to members in converting mutual association by the Board's standard conversion rules may be restricted. *Conversions from Mutual to Stock Form*, 48 FR 15599 (Apr. 12, 1983).

In its standard conversion regulations, contained in Subpart A of 12 CFR Part 563b (1985), the Board has given extensive recognition to the rights and interests of the account holders and other members who are the legal owners of mutual institutions. Subpart A requires the informed approval of members to effect a conversion and gives account holders and other voting members preemptive subscription rights in the stock issued by the converting institution. The standard conversion regulations additionally seek to ensure that a fair price is paid by the subsequent stockholders for their ownership of the institution by mandating that the total price of the stock sold equals the institution's appraised *pro forma* market value. Subpart A seeks to sustain the liquidation interests of account holders by requiring the establishment of a liquidation account for the benefit of account holders in the amount of the net worth of the institution at the date of conversion. Maximum purchase limits and the requirement of widespread stock distribution also serve account holders' interests by preventing parties from using the conversion to acquire control of the institution without premium or gain control of the conversion proceeds to the detriment of account holders and other stockholders.

The conversion approval authority contained in section 121 of the Garn-St Germain act enables the Board to modify the conversion process to meet the needs of institutions whose financial conditions has so deteriorated that standard conversions are not feasible. In order to encourage the development of innovative proposals, the Board declined to promulgate detailed regulations on either the procedural or structural aspects of modified conversions. Subpart D primarily sets forth guidelines for satisfying the statutory requirement of severe financial conditions and provides minimum criteria regarding the structure of modified conversions. The substantive guidelines in 12 CFR 563b.37 generally apply the provisions of Subpart A unless clearly inapplicable, and specifically affirm the preemptive rights of members to purchase all the stock offered in the conversion. Section 563b.37, however, does indicate that modified conversions may be effected without the approval of members and may involve sales of conversion stock at an aggregate price not equal to the *pro forma* market value of the institution as determined by an independent appraiser. To ensure the efficacy of a modified conversion, the current rules require a capital infusion sufficient to bring the converting institution into net-worth compliance calculated by using GAAP rather than RAP.

Proposed Revisions

In Resolution No. 84-655, the Board proposed several amendments to the modified-conversion regulations in order to increase the utility of the modified-conversion procedure. The proposals were primarily the result of discussions between the Board's staff and institutions attempting to structure modified conversions. The Board received thirteen letters in response to its request for comments. Commenters included four insured institutions, one savings and loan holding company, an industry trade group, and the Federal Deposit Insurance Corporation. Commenters uniformly supported the proposal.

1. Qualification Criteria

Among the provisions of the regulations that had been suggested as impediments to using the Subpart D procedure were the current qualification guidelines. Section 563b.36(b) establishes criteria for determinig the existence of the statutory requirement of severe financial difficulties threatening the stability of the applicant. These criteria include: (1) Failure of the institution to meet its regulatory new-worth requirement; (2) a history of recent quarterly losses by the institution referenced to a sliding scale related to net worth; and (3) a demonstration that a standard conversion would not be feasible.

Attention has focused primarily on the initial guideline of failure of the institution to meet its regulatory net-worth requirement. The historic flexibility of the Board's net-worth rules has allowed a number of institutions to satisfy the regulatory net-worth requirements even though the financial prospects of these institutions are not favorable.

A primary cause of this discrepancy is the technique, permitted under RAP, of deferring losses on loans sold. *See* 12 CFR 563c. 14(a) (1985). By establishing a deferred loan-loss account rather than recognizing the loss in the year of sale, insured institutions are able to increase their new worth following a loan sale. Although an institution electing this treatment must demonstrate an intent to use the sale proceeds to improve its future profitability and/or to reduce interest-rate risk, the technique creates a non-earning asset that must be written

off over time and does not of itself improve the institution's operating outlook. While the Board has recently restricted the availability of deferred loan-loss accounting to dispositions of assets acquired prior to October 28, 1984, deferred loan-losses remain a substantial component of the industry's net worth. *See Assets Qualifying for Deferral and Amortization of Grains and Losses,* Resolution No. 85–290, dated April 18, 1985.

In order to allow troubled insured institutions to take advantage of portfolio restructuring opportunities as well as the modified conversion procedure, the Board proposed to amend the qualifications guidelines to disregard deferred loan losses and appraised equity capital in determining whether an applicant's net-worth position supports a finding of severe financial difficulties. Commenters uniformly supported this change and the Board has determined to adopt it as proposed.

In Resolution No. 84–655, the Board additionally proposed to amend the guidelines relating to the amount of losses required to be shown by insured institutions seeking to convert on a modified basis. The current guideline specifies that an institution with more than two-percent net worth must show losses on a GAAP basis for the immediately preceding three quarters, institutions with between one-and two-percent net worth must have GAAP losses in two of the last three quarters, and institutions with less than one-percent net worth need only have one losing quarter in the last three. Because of concern that these guidelines were too rigid and may not provide an accurate indicator of an institution's financial health, the Board proposed to specify instead that an applicant need only show that its current and projected income from continuing operations would not enable it to achieve and maintain the regulatorily required level of net worth without a substantial capital infusion. The proposed formulation is intended to focus on the long-term prospects of the institution rather than its recent operating history. No objection to this proposal was raised by commenters and the Board has determined to adopt it without change.

The Federal Deposit Insurance Corporation ("FDIC") noted in its comment letter that the regulations are not clear on the eligibility of FDIC-insured federal savings banks for modified conversion under § 112 of the Garn-St Germain Act. 12 U.S.C. 1464(o) (1982). Moreover, Subpart D does not address the status of Net Worth Certificates issued by the FDIC in determining such eligibility. The Board has always regarded the Conversion Regulations as applicable to all institutions that meet the definition of an "insured institution" under its rules, which includes federal savings banks chartered under section 112 of the Garn-St Germain Act. 12 CFR 563b.2(a)(18) and 561.1 (1985). However, in response to the FDIC's concerns, the Board is amending § 563.34 to clarify that Subpart D is applicable to conversions under section 5(o) as well as section 5(p) of the Home Owners' Loan Act. The Board is also amending § 563.36(a) to provide that receipt of Net Worth Certifcates from the FDIC presumptively qualifies the institution for modified conversion. In addition, the Board is amending § 563b.36 to clarify that a modified conversion of a federal savings bank the accounts of which are insured by the FDIC may be undertaken when the FDIC certifies, in accordance with section 5(o)(2)(F) of the Home Owners' Loan Act, that severe financial conditions exist that threaten the stability of a savings bank insured by the FDIC and that conversion is likely to improve the financial condition of the savings bank. The Board may then concur in the findings and authorize the conversion if the conversion is in compliance with other applicable requirements of the Board's Conversion Regulations.

2. Sufficiency of Capital Infusion

Under § 563b.37(f), the capital infusion from a modified conversion must be sufficient to bring the converting institution into net-worth compliance calculated on a GAAP basis. As noted in the proposal, this requirement was intended to provide a "benchmark" assurance that the modified conversion would restore the institution to sound operation. Satisfaction of this requirement, however, has proven difficult for institutions that have structured their balance sheets in accordance with regulatory accounting principles. To alleviate this difficulty, the Board proposed to delete GAAP as a standard in favor of RAP net worth for determining the adequacy of the capital infusion. The proposal additionally would have required institutions that disregarded regulatory net-worth items in order to qualify for modified conversion to obtain sufficient capital in the conversion to attain regulatory net-worth levels without these items. Further assurance of the adequacy of the modified-conversion capital infusion would be provided by the requirement of § 563b.37(g) that the infusion be "reasonably sufficient to ensure the financial safety and soundness of the insured institution." 12 CFR 563b.37(g)(2) (1985).

Although this proposed change received no adverse comment, the Board has determined to modify it somewhat in the final rule. To provide a measure for modified-conversion stock sales that ensures that an appropriate amount of new capital is injected into the institution in the conversion, the Board has determined to amend § 563b.37(e) to additionally require that the proceeds from the modified-conversion stock sale exceed the estimated *pro forma* market value of the stock in the converting institution, based on an independent valuation, as provided in § 563b.7. Although such a requirement has not previously been explicitly stated, it has been a natural consequence of the requirement in § 563b.36 that a standard conversion prove impracticable. In the usual case, this has been demonstrated by the inadequacy of a standard conversion capital infusion. However, the Board is of the view that even when the impracticability of a standard conversion can be demonstrated by other means, the value of stock sold in a modified conversion should exceed the value requirement of stock sold in a standard conversion.

3. Preemptive Subscription Rights

Although commenters favorably viewed the proposal to permit restrictions on the preemptive subscription rights of account holders and other members, commenters also raised several issues in this area. Under the proposal, institutions undertaking modified conversions would be allowed to limit subscription rights on a sliding scale tied to the institution's net worth as a percentage of liabilities. For institutions with less than one-percent regulatory net worth, preemptive subscription rights could be limited to between 0 and 20 percent of the offering depending on the institution's actual net-worth position. If an applicant's regulatory net-worth position were between 1 and 2 percent, subscription rights could be limited to between 20 and 50 percent. Finally, for institutions with net worth of between 2 and 3 percent, the required subscription offering would cover between 50–100 percent of the shares offered. As discussed in the preamble to the proposed regulation, the proposal sought to balance the ownership interests of accountholders with the need of converting institutions to provide potential "standby" purchasers with assurance of some control following conversion.

Commenters noted that reference to regulatory net worth may be unclear in view of the modifications in calculating net worth permitted under § 563b.36(b). In addition, it was submitted if net worth for purposes of § 563b.37(g) included such items as deferred loan losses and appraised equity capital, many institutions qualifying for modified conversions would be unable to provide the control assurances to standby purchasers considered necessary for a successful modified conversion.

After further consideration of the matter, the Board has determined to allow insured institutions undertaking modified conversions to eliminate such items as deferred loan losses and appraised equity capital from net worth when calculating the degree to which subscription rights must be conferred. In this manner, the subscription rights of accountholders and other members would be tied to the financial factors that qualified the institution for modified conversion. The Board notes, however, that an election to recognize deferred loan losses that enables an institution to undertake a modified conversion may not be made on a partial basis, and that the recognition of such losses causes a corresponding increase in the total amount of capital that must be raised in the conversion.

Other commenters urged the Board to allow further limitations on the preemptive subscription rights of accountholders in a modified conversion. One commenter advocated the elimination of subscription rights if approved by the members. The commenter submitted that the management of mutual institutions would be in a position to bargain for a better price for the institution if they could guarantee the delivery of control.

The Board is not at this time prepared to amend the modified-conversion regulations to provide such an option, and remains concerned that preemptive subscription rights constitute a necessary attribute of account holders' equity interests. Moreover, the prospect of account-holder subscriptions provides a disincentive to under-valuation of the institution. Any proposal to eliminate preemptive subscription rights must also address these concerns.

The Board is modifying the final regulation to conform to recent changes in the Board's net-worth rules, *Net Worth Requirements of Insured Institutions*, 50 FR 6891 (Feb. 19, 1985). At the time of the proposal, the general net-north requirement was set at a minimum 3 percent of liabilities and the proposal used 3 percent as the maximum figure at which account holder subscription rights could be limited. Under the revised net-worth regulations, however, insured institutions are allowed to reserve against their marginal liability growth at a rate of less than 3 percent, and institutions exceeding their net-worth requirement could conceivably be permitted to limit subscription rights if the modified conversion amendments were adopted as proposed. To avoid such a result, the final version of the rule has been written to more closely tie the permissable limitations on subscription rights to the institution's actual net-worth requirement. As adopted, subscription rights may be limited to between 0 and 20 percent of the offering when the applicant's net worth stands between 0% of liabilities and one-third of the net-worth requirement, 20–50 percent when net worth is between one-third and two-thirds of the requirement, and 50–100 percent when net-worth is between two-thirds and satisfaction (100 percent) of the net-worth requirement.

4. Application Procedures

In addition to the foregoing substantive amendments, the Board proposed several revisions to the modified-conversion applications procedures in order to expedite processing. These proposed revisions included a clarification of the information necessary to obtain permission to file a modified-conversion application. Such materials would include a detailed discussion of the institution's qualification, an outline of the proposed plan of modified conversion, an estimate of proceeds, and a plan of operation following conversion.

Although these proposals received little comment, the Board has determined to make several changes in the final rule. The list of materials required to be filed has been expanded to include a reconciliation statement comparing the institution's net worth with and without deferred loan losses and appraised equity capital. The post-conversion plan of operation could be in summary form although a more detailed business plan would be needed to determine the adequacy of the capital infusion when the formal modified-conversion application is filed.

In addition, the Board is adopting a new provision, § 563b.39, which specifies that the materials required for a modified-conversion application need not include a preliminary offering circular or proxy statement. Instead, modified-conversion applications would include only a plan of conversion, a change-in-control notice or holding company application from any person or company whose projected ownership will exceed regulatory control thresholds, an appraisal report, a business plan, and audited financial statements for the most recent fiscal year. To further expedite processing, the Board is delegating to the General Counsel authority to approve applications for modified conversion by amending § 563b.36 to include a new paragraph (d) delegating to the General Counsel the Board's modified-conversion approval authority under paragraph (a) of that section. The Board is also adopting a new § 563b.40 prohibiting offers and sales of stock in a modified conversion until the Corporation has declared an offering circular effective and delegating that authority to the General Counsel or his designee.

The foregoing amendments will take effect 30 days following publication in the **Federal Register**. The Board has determined that the public notice and comment procedures of 5 U.S.C. 553(b) and 12 CFR 508.12 and 508.13 are unnecessary, impracticable, and contrary to the public interest with respect to: (1) the amendment to § 563b.37(g), since the amendment essentially codifies past policy and relieves a current restriction; and (2) the amendments to § 563b.38 and the adoption of § 563b.39, since these rules relate to internal agency procedures.

Final Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, 5 U.S.C. 604 (1982), the Board is providing the following final regulatory flexibility analysis:

1. *Reasons, objectives, and legal bases underlying the rules.* These elements have been discussed elsewhere in the supplementary information regarding the amendment.

2. *Small entities to which the rules would apply.* The rules would apply to all insured institutions.

3. *Impact of the rules on small institutions.* To the extent that the rules would affect small institutions, this impact has been discussed elsewhere in the amendment.

4. *Overlapping or conflicting federal rules.* There are no federal rules which duplicate, overlap, or conflict with the rules.

5. *Alternatives to the proposed rule.* Other alternatives, such as the present rules, tend to limit the utility of the modified conversion procedure. More liberal provisions raise questions of statutory authority.

List of Subjects in 12 CFR Part 563b

Savings and loan associations, Securities.

Accordingly, the Board hereby amends Part 563b of Subchapter D, Chapter V, Title 12 of the Code of Federal Regulations, as set forth below.

1. The authority for 12 CFR Part 563b continues to read:

Authority: Section 5 of the Home Owner's Loan Act, as amended, 12 U.S.C. 1464; sections 402, 403, and 407 of the National Housing Act, as amended, 12 U.S.C. 1725, 1726, 1730; Reorganization Plan No. 3 of 1947, 3 CFR 1071 (1943–48 Comp.).

PART 563b—CONVERSION FROM MUTUAL TO STOCK FORM

Subpart D—Guidelines for Modified Conversion

2. Revise § 563b.34 as follows:

§ 563b.34 Scope of Subpart.

(a) This subpart establishes guidelines for modified conversion from the mutual to stock form of insured institutions as authorized or ordered by the Board pursuant to Section 5(p) of the Home Owners' Loan Act, 12 U.S.C. §§ 1464 or of an FDIC-insured savings bank as concurred in by the Board pursuant to Section 5(o) of the Home Owners' Loan Act, 12 U.S.C. 1464(o).

(b) The provisions of this Subpart are not exclusive and may be waived by the Board.

3. Amend § 563b.36 by revising paragraph (a); redesignating paragraph (b) as paragraph (c); adding a new paragraph (b); and revising new paragraphs (c) (1) and (2) and adding a new paragraph (d), as follows:

§ 563b.36 Guidelines for qualification.

(a) The Board may, in its discretion, approve or order a modified conversion if it finds that the following conditions have been met: (1) the insured institution has contracted to receive assistance from the Corporation under section 406 of the National Housing Act or from the Federal Deposit Insurance Corporation under Section 13 of the Federal Deposit Insurance Act; or (2) the Board determines that: (i) Severe financial difficulties exist which threaten the stability of the insured institution, and (ii) the conversion to stock form is likely to improve the financial condition of the institution.

(b) The Board may, in its discretion, concur that an FDIC-insured mutual savings bank qualifies for a modified conversion to federally-chartered stock savings bank form if the Federal Deposit Insurance Corporation certifies to the Board in accordance with section 5(p)(2)(F)–(H) of the Home Owner's Loan Act that severe financial conditions exist that threaten the stability of the state-chartered savings bank and conversion to the federally-chartered stock savings bank form is likely to improve the financial condition of the savings bank.

(c) * * *

(1) The insured institution does not meet its regulatory net-worth requirement, *except* that, for purposes of determining compliance, the institution may: (i) disregard the effect of appraised equity capital by following the procedures of § 563b.32 of Subpart C of this part; and (ii) solely for purposes of this paragraph (c), recognize all its losses on sales or other dispositions of mortgage loans, redeemable ground-rent leases or other securities specified in § 563c.14 notwithstanding a prior election under § 563b.32(a) or the exemption under § 563.13(e) of this subchapter;

(2) Current and projected income from operations is not sufficient to restore and maintain the institution's regulatorily required net worth;

* * * * *

(d) *Delegation.* The Board delegates to the General Counsel or his designee its authority under paragraph (a).

4. Revise § 563b.37(e), (f) and (g), as follows:

§ 563b.37 Substantive guidelines.

* * * * *

(e) An insured institution converting under this Subpart D shall sell its stock at an aggregate price greater than the estimated *pro forma* market value of the institution, based on an independent valuation, as provided in § 563b.7 of this Part.

(f) The Board may, in its discretion, approve an application for conversion pursuant to this Subpart if it is demonstrated to the Board's satisfaction, through a submission prepared by an independent investment banking firm or other qualified person, that the net capital to be received from the sale by the converting insured institution of its capital stock pursuant to this Subpart, (1) would bring the insured institution into regulatory net-worth compliance in accordance with the requirements of § 563.13(b) of this Subchapter without including net-worth items excluded pursuant to § 563b.36(c)(1), and (2) would be reasonably sufficient to ensure the financial safety and soundness of the insured institution.

(g) The eligible account holders, the supplemental eligible account holders, and the voting members, if any, of the insured institution converting pursuant to this Subpart shall be granted subscription rights to purchase all of the stock proposed to be issued by the insured institution, in accordance with the rules and regulations of Subpart A of this Part, *except* that such subscription rights may be eliminated or reduced as follows: (1) If the regulatory net worth of the institution is between 0 percent of an institution's liabilities and one-third of its net-worth requirement under § 563.13, such subscription rights may be reduced to an amount between 0 percent and 20 percent of the total stock offered, such percentage between 0 percent and 20 percent to be determined on a sliding sale on the basis of the institution's regulatory net worth; (2) if the regulatory net worth of the institution is more than one-third but not in excess of two-thirds of its net worth requirement under § 563.13, subscription rights may be reduced to an amount between 20 percent and 50 percent of the total stock to be offered, such percentage between 20 percent and 50 percent to be determined on a sliding scale on the basis of the institution's regulatory net worth; and (3) if the regulatory net worth of the institution is more than two-thirds of its net-worth requirement but not in excess of the institution's net-worth requirement, subscription rights may be reduced to an amount between 50 percent and 100 percent to be determined on a sliding scale on the basis of the institution's regulatory net worth. In determining its regulatory net worth for purposes of this paragraph, an insured institution may exclude from consideration as net worth items that may be disregarded pursuant to § 563b.36(c)(i) and (ii) of this Subpart.

5. Revise § 563b.38 as follows:

§ 563b.38 Permission to file applications under Subpart D.

(a) *Requirement of prior approval.* No application may be filed under this Subpart D without the prior written approval of the Corporation.

(b) *Application.* Applications for permission to file an application for modified conversion shall be accompanied by a detailed discussion of the institution's qualification for modified conversion, a statement reconciling its net worth under generally accepted accounting principles to its net worth under regulatory accounting principles, an outline of the proposed plan of conversion, an estimate of the amount of capital expected to be raised, and a summary plan of operation of the institution following conversion.

(c) *Delegation.* The Board delegates to the General Counsel or his designee the

authority of the Board under paragraph (a) of this section.

6. Add new §§ 563b.39 and 563b.40 as follows:

§ 563b.39 Application for modified conversion.

(a) An application for modified conversion shall include:

(1) A plan of modified conversion describing the method of stock sale, listing proposed purchasers, and specifying the provisions of Subpart A of this Part for which waiver is sought.

(2) A Change-in-Savings-and-Loan-Control-Act Notice or Savings and Loan Holding Company Act Application for any person or company proposing to acquire shares in excess of the level for which prior notice or approval is required under the regulations implementing those Acts;

(3) An independent valuation of the stock prepared in accordance with § 563b.7 of this part;

(4) A business plan which shall contain the proposed operating policies of the insured institution following conversion; and

(5) Financial statements for the most recent fiscal year prepared in accordance with generally accepted accounting principles.

§ 563b.40 Sale of stock.

(a) *General.* No offer to sell securities of an applicant pursuant to a plan of modified conversion may be made prior to approval by the Corporation of the application for conversion. No sale of securities may be made except by means of a final offering circular which has been declared effective by the Corporation.

(b) *Delegation.* The Board delegates to the General Counsel or his designee the authority of the Corporation to declare a final offering circular effective.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 85-11887 Filed 5-15-85; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Part 563c

[No. 85-290]

Assets Qualifying for the Deferral and Amortization of Gains and Losses

April 18, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board is amending its regulations regarding the types of mortgage loans, mortgage-related securities and debt securities that qualify for deferral and amortization treatment under § 563c.14 of the Board's rules for insured institutions. The purpose of the amendment is to prohibit use of this treatment for certain transactions designed to inflate net worth or to avoid the recognition of credit losses while at the same time continuing to provide insured institutions with a means to improve their profitability and reduce their exposure to interest-rate risk. When this amendment was proposed on October 19, 1984, the Board notified the public that it was proposing to apply the amendment as of the publication date of the proposal. Accordingly, the effective date of this amendment is October 28, 1984.

EFFECTIVE DATE: October 28, 1984.

FOR FURTHER INFORMATION CONTACT: Douglas McEachern, Professional Accounting Fellow, Office of Examinations and Supervision, (202-377-6392) or James Underwood, Attorney, Corporate and Securities Division, Office of General Counsel, (202-377-6649), Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On October 19, 1984, the Federal Home Loan Bank Board ("Board") as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), proposed an amendment to its regulations limiting the scope of assets that qualify for deferral and amortization of gains and losses (12 CFR 563c.14). The Board had found that, subsequent to the rule's adoption in 1981, certain of its provisions were being construed to allow insured institutions to engage in transactions solely to take advantage of the loss-deferral provisions without enhancing the underlying economic value of the institutions.

The Board continues to believe in the desirability of providing insured institutions with tools to allow them to restructure their operations and adjust to the deregulation of the thrift industry. While providing tools, such as the loss-deferral accounting technique, for these purposes, the Board is, however, particularly intent upon disallowing abusive transactions that either sacrifice the long-term health of the institution or create artificial earnings that have no economic substance. Therefore, after carefully reviewing the comments received and other available information, the Board has determined to adopt the amendments substantially as proposed, with the modification described below.

Comments

The Board received a total of 12 comments on the proposal. Of these, nine were from insured institutions and three were from thrift industry trade groups. The three industry trade groups and two institutions supported the Board's proposal while the balance of the commenters generally expressed reservations about the Board's action or suggested revisions to the proposal.

Two commenters were concerned that the Board's proposed amendment would preclude the use of the loss-deferral regulations for the sale of participation certificates ("PCs") acquired in a swap transaction (with the Federal Home Loan Mortgage Corporation, for example) after October 28, 1984. These commenters noted that the loans collateralizing the PCs would have been purchased or originated prior to October 28, 1984, the proposed effective date of the amendment.

The Board has amended the regulation to clarify that PCs and similar securities obtained in exchange for assets acquired, purchased or committed to be acquired or purchased prior to October 28, 1984, qualify for treatment under § 563c.14.

Two commenters objected to the proposed elimination of loss deferral in the case of scheduled items. In response, the Board reminds these commenters that, as adopted and subsequently interpreted, the deferred-loss regulation was not intended to permit institutions to avoid recognition of losses that arise from credit risk; the regulation was designed to provide flexibility to institutions dealing with problems related to their portfolios of below-market-interest-rate assets, i.e. losses resulting from disruptive, nationwide interest-rate fluctuations.

Two commenters were concerned that the Board was attempting to retract or rescind the deferred-loss regulation. The proposal, however, was quite clear that the Board was merely proposing to restrict the use of the regulation for certain assets acquired after October 28, 1984, but proposed no retraction or rescission of the regulation for assets acquired before that date.

One commenter objected generally to the proposal and recommended that, rather than restricting management's flexibility, the Board should pursue those it believed were violating the existing regulation or were otherwise engaged in abusive practices. In response, the Board notes the difficulty in requiring corrective accounting if the

regulation may be interpreted as permitting the transaction. In addition, the Board is not persuaded that it would be reasonable to continue to permit the use of this regulation for loans purchased or acquired after October 28, 1984. Institutions have now been provided with a number of tools to deal with old interest-rate losses and manage new interest-rate risks. Institutions that find themselves exposed to interest-rate losses on recently acquired assets should be required to recognize the effects of their actions; these problems were not caused by the rapid deregulation of interest rates.

A commenter recommended, as an alternative approach, that the Board provide for a case-by-case review of transactions involing the disposition of assets acquired after October 28, 1984. The Board has decided not to adopt this recommendation for the reason given above concerning the adequacy of interest-rate risk management tools for currently acquired assets, and for the futher reason that case-by-case review of such a tremendous volume of transactions would be extremely burdensome administratively.

Finally, a trade group suggested that the Board re-examine Memorandum T59-9 "Sale of Loan Servicing Rights," issued by the Board's Office of Examinations and Supervision. The substance of this document is outside the scope of this rulemaking proceeding.

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164 (Sept. 19, 1980), the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objectives, and legal bases underlying the rules.* These elements have been discussed elsewhere in the supplementary information regarding the amendment.

2. *Small entities to which the rules would apply.* The rules would apply to all insured institutions.

3. *Impact of the rules on small institutions.* To the extent that the rules would affect small institutions, this has been discussed elsewhere in the amendment.

4. *Overlapping or conflicting federal rules.* There are no federal rules which duplicate, overlap, or conflict with the rules.

5. *Alternatives to the rule.* Other alternatives, such as rescinding entirely the loss-deferral accounting technique, would be more restrictive and could discourage institutions from prudent restructuring of their portfolios.

List of Subjects in 12 CFR Part 563c

Federal Savings and Loan Insurance Corporation, Accounting, Savings and loan associations.

Accordingly, the Board hereby amends Part 563c, Subchapter D, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563c—ACCOUNTING REQUIREMENTS

1. The authority for 12 CFR Part 563c continues to be:

Authority: Secs. 402, 403, 407 of the National Housing Act, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 1981, 3 CFR 1943-48 Comp., p. 1071.

2. Amend § 563c.14 by revising paragraph (a) thereof, as follows:

§ 563c.14 Accounting for gains and losses on the sale or other dispostion of mortgage loans, redeemable ground-rent leases, and certain securities; matching the amortization of discounts and losses.

(a) *General.* An insured institution, by resolution of its board of directors, may elect to defer and amortize all gains and losses (except for gains and losses related to disposition of scheduled items as defined by § 561.15 of this subchapter, including loans to facilitate sales of foreclosed property), net of related income taxes computed in accordance with generally accepted accounting principles, on any sale or other disposition, occurring in the fiscal year that the action to defer and amortize is taken, of mortgage loans, redeemable ground-rent leases, mortgage-related securities (as defined in § 563.17(a)(4) of this subchapter), preferred stock that at the time of issuance provides for redemption of a fixed date in a fixed dollar amount or for redemption pursuant to a fixed schedule of periodic payments and has a remaining term to maturity of at least five years, and debt securities that do not qualify as liquid assets under § 523.10(g) (except those qualifying under § 523.10(g)(11)) of this chapter because of their maturities or that have remaining terms to maturity of at least five years. Using the same procedure, an institution may revoke any prior election(s) to amortize gains and losses on the disposition of such assets. The election to defer gains and losses is restricted to the disposition of assets acquired, purchased, originated or committed to be acquired, purchased or originated prior to October 28, 1984. Participation certificates and similar securities obtained in exchange for assets acquired, purchased or committed to be acquired or purchased prior to October 28, 1984, qualify for treatment under this section.

* * * * *

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 85-11884 Filed 5-15-85; 8:45 am]

BILLING CODE 6720-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 611

Organization

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA), by its Federal Farm Credit Board (Federal Board), adopts new regulations and amends existing regulations concerning amendments to Federal land bank association (FLBA) and production credit association (PCA) charters and procedures for effecting mergers or consolidations of such associations. These new regulations and amendments improve the procedures for amending association charters and effecting mergers and consolidations. In addition, the merger and consolidation procedures set forth the requirements for disclosure of information to voting stockholders to ensure that they are adequately informed regarding association merger or consolidation proposals.

EFFECTIVE DATE: Thirty days from this publication date, provided either or both Houses of Congress are in session. Notice of the effective date will be published.

FOR FURTHER INFORMATION CONTACT:

Rose M. Ferguson, Office of Examination and Supervision (703) 883-4430

or

Kenneth L. Peoples, Office of the General Counsel (703) 883-4024

Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.

SUPPLEMENTARY INFORMATION: In the July 20, 1984 **Federal Register** (49 FR 29404-29408), FCA published proposed revisions to its regulations concerning the procedures for amending FLBA and PCA charters and for effecting mergers or consolidations of associations operating under the same title of the Farm Credit Act of 1971, as amended (Act). The comment period closed on September 19, 1984. The FCA received a

large number of comments and requests to extend the comment period to allow for more indepth review of the proposed rules. Due to those requests, the comment period was extended to November 5, 1984. Notification of this extension was published in the September 19, 1984 **Federal Register** (49 FR 36655). A detailed explanation of the proposed amended regulations, 12 CFR 611.1120–611.1125, may be found in the preamble to the proposed rulemaking in the July 20 **Federal Register** (49 FR 29404–29408). The Federal Board considered over 70 comments from Farm Credit System (System) institutions, commercial banks, members of Congress, private attorneys, agricultural organizations, and farmer/borrowers. The Federal Board considered each of the comments received, made changes to the proposed regulations where appropriate, and adopted final regulations at its February 4–6, 1985 meeting.

A large number of the commentators objected to the regulations covering charter amendments, particularly the proposed regulation § 611.1120 setting forth the Governor's authority to direct charter amendments on his own initiative. They alleged that the regulation usurped control of the association from the farmer/owners, violating the Act. Many of these commentators demanded public hearings on the regulations.

The Federal Board believes these commentators have incorrectly read the proposed regulation as authorizing the Governor to require merger or consolidation of associations through charter amendments. While the Act specifically authorizes the Governor to approve association charter amendments or to make charter amendments at his own initiative, 12 U.S.C. 2031, 2091, this authority does not include the power to merge or consolidate associations. Although certain charter amendments may be necessary to effect a merger or consolidation, a merger or consolidation is a form of corporate reorganization which goes beyond amendments to the charter, and which ordinarily requires shareholder approval. However, it should be noted that the Act specifically reserves authority to require merger or consolidation of associations to the Federal Board whenever it determines, with the concurrence of the district Farm Credit board, that an association has failed to meet its outstanding obligations or has failed to conduct its operations in accordance with the Act. The Federal Board believes that this misunderstanding of the purpose and effect of the proposed amendment has been resolved by restructuring and editing the proposed regulation.

The Federal Board does not believe public hearings on these regulations are warranted due to the extended comment period which has afforded active public participation. The FCA is not required to hold public hearings for this informal rulemaking undertaken pursuant to the Administrative Procedure Act. The large number of comments received indicates that an adequate opportunity has been afforded the public for participation in the rulemaking process.

One System institution commented that the approval of the association's supervising bank board should be necessary to approve a charter amendment request under § 611.1121. Another commentator stated that this section should provide for stockholder approval of charter amendments. The Federal Board declined to adopt either suggestion. Bank board approval is not necessary and should not be a prerequisite to Agency action. The Federal Board noted that the regulation does require that the supervising bank review an association's request for a charter amendment and forward it to the FCA with its recommendations. The Federal Board did not think it appropriate to require stockholder approval for charter amendments since the Act does not impose such a requirement.

A large number of commentators made suggestions for changes to proposed new § 611.1122. The regulation specifies the information required to be disclosed to association stockholders when stockholder approval of a merger or consolidation proposal is sought. One System bank suggested that the FCA delegate the responsibility for the merger and consolidation approval process, including the determination of the scope and method of financial disclosure, to the System banks. The Federal Board rejected the suggestion on the belief that approvals of corporate reorganizations and the uniform standards for disclosure of information to stockholders voting on such proposals are Agency actions of a regulatory nature that cannot be delegated. Disclosure standards for mergers and consolidations should follow a Systemwide standard established by FCA regulation.

Two System banks contended that association voting stock is not a security and therefore the disclosure required by the regulation is far too extensive. Alternatively, they suggested that no financial information be sent to stockholders but that the association develop the information and have it available for viewing by interesting members at the association. A representative of some FLBA stockholders went further to assert that the FCA does not have the statutory authority to require such financial disclosure. Other FLBAs argued that the regulations imposing financial disclosure on associations are unnecessary, time consuming, and expensive. A farm credit organization suggested that more financial disclosure to stockholders is needed and stated that FCA would withhold information from the farmer/owners by not requiring distribution of a copy of the merger agreement or bylaws to the stockholders.

The Federal Board did not agree with these positions. The FCA does not base the promulgation of the disclosure regulation on the assumption that voting stock of an FLBA or PCA is a security for purposes of Federal or State securities statutes. The importance of a merger or consolidation decision to stockholders' interests makes it imperative that farmer/borrowers have adequate information available to make informed decisions on the advisability of a proposal. Section 1.1(b) of the Act directs the FCA to encourage participation of the association members in the management, ownership, and control of the associations. Few corporate decisions are more important than a merger or consolidation. The Act authorizes voluntary association merger only with the affirmative vote of a majority of the voting stockholders present and voting or voting by proxy vote for the merger at a duly called meeting at which a quorum is present. The Federal Board believes that it will not have discharged its responsibility to the owners of the Farm Credit System if it does not require dissemination of the minimum information necessary to make an informed decision on a merger or consolidation proposal. The proposed disclosure requirements provide the type of information that any farmer or rancher would want to have in making a decision on whether to acquire a business. The Federal Board believes that stockholders who are asked to approve a transaction that significantly affects their interests should be furnished with the disclosure material along with the proxy solicitation and should not have the burden of obtaining information materials about the proposal.

The FCA's authority to require financial disclosure derives from its authority to approve mergers and consolidations pursuant to section

5.18(a) of the Act. Under that section, the FCA has the power and responsibility to approve mergers or consolidations of FLBAs and PCAs and the consolidation of territories they serve, and to prescribe rules and regulations necessary and appropriate for carrying out these actions. Requiring disclosure of financial information necessary for stockholders to make an informed decision on a merger or consolidation proposal is an important part of the FCA's responsibility to protect both the safety and soundness of System institutions and the rights of its owner/borrowers to information.

A farm credit organization stated that the proposed § 611.1122 has two deficiencies: (1) The FCA will not approve a merger or consolidation until after stockholder action; and (2) the section does not provide for dissenting stockholders' rights. The commentator believes that the FCA has a duty to advise the association members on merger proposals and to assure farmers that all factors of the proposed merger or consolidation meet with the FCA's approval. The commentator believes that the final decision should rest with the stockholder and not a Government agency, and that the stockholders should have the opportunity to present their views prior to the final meeting. The commentator also expressed concern that stockholders are not currently able to obtain stockholder lists to make such communications and do not have the financial or administrative capabilities to present dissenting views.

The Federal Board disagrees that the FCA has a duty to scrutinize a merger or consolidation proposal and evaluate it for borrowers. Associations are privately owned and operated institutions. Stockholders have the responsibility to make their own informed business judgment on whether to vote for a given proposal. The FCA's approval is based on its judgment that the merged entity, based on the information presented by the associations, will be financially viable and able to continue providing adequate agricultural credit and financial services to farmers in the territory. A preliminary FCA approval is given prior to the stockholder vote based on the information available at the time of application. Similarly, the Federal Board does not agree that a merger or consolidation proposal should be presented to stockholders only after the FCA has given it its final approval. Such a procedure would unnecessarily restrict the right of stockholders to alter a proposal as presented because it has already received final regulatory approval. Finally, it is not the responsibility of the FCA to evaluate the merits of a merger or consolidation proposal as it relates to each borrower, nor should the bank, association, or any director, officer, or employee represent that the FCA has passed on the merits of the merger or the effect on particular borrowers. The proposed regulation has been amended to reflect this.

The commentator's demand for dissenters' rights is misplaced. Under general corporate law, dissenters' rights are specifically set forth in the enabling corporate state and allow shareholders who disagree with a proposal for a merger to have the value of their stock determined by independent appraisal and redeemed in cash, rather than having it exchanged for the stock of the continuing association. The Act does not provide for dissenters' rights. Nor are the considerations that underlie such statutory rights present in mergers of solvent associations, since the stock in every System association is purchased and redeemed at the same par value. Where a majority of stockholders approve a merger and thereby bind all stockholders, an unsatisfied stockholder has the option of paying down his or her loan, requesting that the association retire the supporting stock, and seeking financing elsewhere. As for communicating with other stockholders, an association stockholder has the same rights as other stockholders of entities under general corporate law to communicate with fellow stockholders. The FCA has taken the position that an association stockholder has a right to obtain the stockholder list for a proper corporate purpose. However, the issue is not appropriate for a regulation setting forth procedures for effecting mergers or consolidations.

Several System banks suggested new language to permit the supervising bank to determine the list of documents and the type of disclosure required to be given to stockholders voting on a merger or consolidation proposal. The banks believe that this will enable the supervising bank to tailor disclosure to fit a particular proposal. The Federal Board rejected the suggestion on the belief that the FCA must set forth in regulations the minimum Systemwide standard for disclosure of financial information to stockholders in connection with a merger or consolidation vote. The type of required disclosure proposed is minimal. It is relevant in all cases, and should be made available to all stockholders in all mergers and consolidations. There may be cases where additional information must be disclosed to give stockholders a complete picture of the proposal. As a condition of its recommendation on the transaction, the supervising bank may require additional information when it believes that such a condition is present.

Special situations are presented when a proposed merger or consolidation will involve more than three associations. In such cases, the Federal Board believes the FCA should have the discretion to require the supplementation or allow the condensation of certain information to ensure that adequate information is provided to stockholders in a meaningful form, without requiring an unwieldy disclosure package. This is a particularly important point where a proposed merger or consolidation is designed to implement a partial or comprehensive reorganization of association territories within a district. A new paragraph has been added to afford the FCA related flexibility. The amount of information and the level of disclosure will vary depending upon the condition of the constitutent merging or consolidating associations.

Several System banks suggested that the required inclusion in the disclosure to stockholders of a statement that the FCA does not pass on the accuracy or adequacy of the disclosure information be deleted. They asserted that this is not true because the FCA approves the merger. On the other hand, one System bank suggested that an additional phrase be added to the disclaimer to the effect that no representation to the contrary shall be made and that a statement be added prohibiting the making of false or misleading statements. A farm credit organization expressed its view that the FCA's primary role is to audit an association's books to inform stockholders that the information presented on a proposed merger is accurate and adequate for making the decision. The commentator further stated that the FCA should perform an audit and not require the association to spend funds to have an outside party prepare financial statements.

The Federal Board believes that the disclaimer that the FCA has passed on neither the accuracy nor the adequacy of the disclosed information is accurate and appropriate, and should be retained. The responsibility for the accuracy and adequacy of the disclosure to stockholders rests squarely with association management and directors. In approving a merger or consolidation proposal and clearing the disclosure for distribution, the FCA does not guarantee the accuracy of data. That responsibility properly rests with the association which produces the data. The FCA's

approval of a merger or consolidation proposal and the clearance of the disclosure material for distribution does not imply that the information is adequate. When the FCA reviews and approves a proposal, it scrutinizes the information made available by the association in the merger or consolidation application to determine whether the requirements of the regulation are met, whether the disclosure is internally consistent, and whether there is anything to suggest that the information is inaccurate. The proposed regulation set forth only the minimum requirements and are not intended to provide a format for every line item. There may be other facts or financial data that are necessary to state fully the financial condition of the association, and the association is charged with providing any additional information that may be necessary to ensure that the information is not misleading.

The Federal Board does not agree that the FCA should perform a special audit of associations for the stockholders prior to a merger or consolidation. Associations are owned and operated by their farmer borrower/owners. With that ownership goes the responsibility by both directors and stockholders to examine merger proposals closely. Association boards of directors are responsible for ensuring that the information is accurate, and the regulation requires a representation to that effect. The Federal Board does believe that if a board of directors is not comfortable in representing that the data is accurate, it should have the option of obtaining comfort through an opinion of independent accountants, as provided by an amendment to the regulation. However, ultimate responsibility for its accuracy remains with the board. The Federal Board has added a statement prohibiting false and misleading statements.

A spokesman for a family farm organization stated that when the merger of System associations takes place the stockholders should receive adequate equity for their shares, as in the case of a merger of private banks. The commentator stated that the regulations allow the FCA to bring about mergers with less concern for the farmer/owners' rights and equities. Many comments of individual farmer/borrowers stated their position that the regulations limited farmer input into the decision to merge or consolidate and suggested that the regulations be directed toward protecting the rights and interest of the farmer/owners.

The Federal Board does not agree with these commentators and believes that the proposed regulations reflect concern for stockholder equity. The proposed § 611.1123(a) requires that the merger or consolidation agreement set forth a formula for the exchange of equities. Association stock is not precisely equivalent to stock in a private bank in that as there is no reasonable expectation of appreciation, there is no secondary market in the stock, and the stock is transferable only to other eligible borrowers. Voting stock of a solvent association is both acquired and retired at par value. An association's stockholders may receive more than par value only in the unlikely event that the association is liquidated before its surplus has been depleted. The proposed disclosure regulations require that the stock exchange ratio be disclosed, and leave it to the stockholders to evaluate this information and vote on the proposal. The Federal Board believes that the regulations will assure that stockholders are provided with the information necessary to make informed decisions on merger or consolidation proposals, and that these requirements adequately reflect the concern for a stockholder's rights.

One System bank suggested that the phrase "generally accepted accounting practices" (GAAP) is proposed § 611.1122(c)(8) be replaced with "accounting guidelines prescribed by the Farm Credit Administration and the supervising bank" because the associations do not prepare financial statements in all respects in accordance with GAAP. Another System bank believes that the requirement to disclose separately all significant interest-earning assets and interest-bearing liabilities as well as interest and expense accruals in § 611.1122(c)(7) should be eliminated as redundant in view of the requirements in § 611.1122(c)(5), (6), and (8).

The Federal Board agrees that the financial statements of the associations are not prepared in all respects in accordance with GAAP. However, the proposed regulation only requires that the financial position be stated in accordance with GAAP, "except as otherwise qualified." The differences from GAAP must be fully explained in the notes to the financial statements. In addition, the Federal Board believes that the requirement for disclosing interest-earning assets and interest-bearing liabilities separate from other financial disclosure is not redundant, but emphasizes a very important aspect of an association's financial condition.

One bank suggested that the requirement in § 611.1122(c)(8) that the board of directors certify the financial statements of the association should also include a requirement that they be certified by the chief executive officer. Several System banks suggested that the requirement be deleted altogether. One System bank stated that it is the management that bears the responsibility for the financial statements and that any board member would be relying upon the professional staff or outside accountants. One farm credit organization stated that the association board of directors should not be required to make such representation because association directors do not generally have the technical expertise to make such an auditing statement and that the FCA should do an audit and provide the stockholders with an auditing statement and report.

The Federal Board does not agree that management alone bears responsibility for an associations financial statements. An association board of directors is charged with the responsibility of overseeing the management of the association, although day-to-day operations are generally conducted by the officers selected by the directors. Responsibility for the financial condition of the institution rests ultimately with the board. It is not the FCA's function to conduct a financial audit of an association every time the institution pursues a transaction such as a merger or a consolidation requiring an audit. FCA examinations are for the general regulatory and supervisory purpose of protecting the safety and soundness of System institutions, and not for purposes such as facilitating a merger or consolidation proposal. The Federal Board recognizes that many business organizations have outside accounting firms audit the company's financial condition, which provides a level of comfort that the entity's financial statements are accurate. For these reasons, the Federal Board has added an option to § 611.1122(c)(8) permitting an association board to obtain an opinion of an independent accounting firm in lieu of providing the representation of the association's financial condition. This, of course, does not relieve a board of its ultimate responsibility for the association's financial statements. The Federal Board has also adopted the suggestion that the chief executive officer of an association be required, consistent with management responsibilities, to certify the accuracy of the association's financial statements.

One System bank suggested that the requirement in § 611.1122(c)(9) requiring disclosure of information from the latest credit review of the association be replaced with the requirement to disclose nonperforming loans that must be reported to the FCA in accordance with FCA's letter of May 30, 1984. The Federal Board agrees with this comment and has amended the regulation accordingly.

One System bank commented that association information concerning the amount of chargeoffs taken in the previous 2 years in not meaningful to the association members voting on a merger. The institution also did not believe a borrower could obtain any meaningful information from interest rate comparisons of constituent associations, particularly given the power of the board to change interest rates. The Federal Board believes the information regarding the previous 2 years of chargeoff experience is essential to explain the financial statements of the association and to indicate its potential for continuing as a sound institution. In addition, the Federal Board believes that the interest rate comparisons required present a history of incremental changes in the past that may indicate a future trend. This information is valuable to stockholders, notwithstanding the association board's authority to change the interest rate.

A farm credit organization stated that a copy of the entire bylaws should be sent to stockholders in connection with a merger or consolidation proposal in § 611.1123. The Federal Board agrees that stockholders should be able to obtain a copy of the association's bylaws. However, the Federal Board considers this a general right of stockholders and not limited to mergers or consolidations and, therefore, should be the subject of a separate regulation. Accordingly, the Federal Board has developed § 611.1125 to address this issue.

A System institution stated that association directors or officers should not have a right to terminate a merger agreement or consolidation agreement after a stockholder vote for the proposal and that § 611.1123(g) should be amended to reflect this. The Federal Board disagrees with this suggestion. Merger or consolidation agreements for corporations typically give directors or designated officers the authority to terminate a merger or consolidation agreement in case some event occurs making the merger or consolidation less viable. Those reasons are no less applicable here. To prohibit such terminations would unnecessarily restrict the authority of managements and boards of directors and the ability of the associations to develop a favorable merger or consolidation plan.

One System institution suggested that stockholders involved in a territorial transfer as in § 611.1124 should be given the same information as stockholders involved in a merger or consolidation. The Federal Board agrees and has amended proposed § 611.1124 to indicate that stockholders and the holders of participation certificates involved in a territorial transfer have the right to receive the latest financial information relating to both associations. Another System bank believes that it was not intended to require all loans of borrowers to be transferred in a territorial transfer and that the regulation should be amended to reflect this. The Federal Board believes that associations should not be allowed to transfer territory without transferring all loans of borrowers in that territory to the transferee association (unless otherwise approved by the FCA), and the regulation has been amended accordingly.

There were many conditional comments that were technical and editorial in nature. The Federal Board considered each of the comments and adopted the suggestions where appropriate.

List of Subjects in 12 CFR Part 611

Agriculture, Banks, Banking, Organization and functions (Government agencies), Rural areas.

PART 611—ORGANIZATION

As stated in the preamble, it is proposed that Part 611 of Chapter IV, Title 12 of the Code of Federal Regulations, be revised as follows:

1. The authority citation for Part 611 is revised to read as follows:

Authority: Secs. 1.13, 2.10, 4.12, 5.9, 5.12, 5.18, Pub. L. 92-181, 85 Stat. 619, 620, 621 (12 U.S.C. 2031, 2091, 2183, 2243, 2246 and 2252).

§ 611.1130 [Removed]

§ 611.1115 [Redesignated from § 611.1140]

2. Subpart F is amended by removing § 611.1130 and redesignating § 611.1140 as § 611.1115.

3. A new Subpart G is added, consisting of § 611.1120 which is revised and redesignated from subpart F to new subpart G, and §§ 611.21–611.25 to read as follows:

Subpart G—Mergers, Consolidations, and Charter Amendments of Associations

Sec.

611.1120 General authority.
611.1121 Charter amendment procedures.
611.1122 Requirements for mergers or consolidations.
611.1123 Merger or consolidation agreements.
611.1124 Territorial adjustments.
611.1125 Association articles and bylaws.

Subpart G—Mergers, Consolidations, and Charter Amendments of Associations

§ 611.1120 General authority.

(a) An amendment to an association charter may relate to any provision that is properly the subject of a charter, including, but not limited to, the name of the association, the location of its offices, or the territory served.

(b) the Farm Credit Administration may make changes in the charter of an association as may be requested by that association and approved by the Farm Credit Administration pursuant to § 611.1121.

(c) The Farm Credit Administration may, by order of the Governor and on its own initiative, make changes in the charter of a Federal land bank association or a production credit association where the Governor determines that the change is necessary for the accomplishment of the purposes of the Act.

§ 611.1121 Charter amendment procedures.

This section shall apply to any request by an association to amend its charter.

(a) An association which proposes to amend its charter shall submit a request to its supervising bank containing the following information:

(1) A statement of the provision(s) of the charter that the association proposes to amend and the proposed amendment(s);

(2) A statement of the reasons for the proposed amendment(s), the impact of the amendment(s) on the association and its stockholders, and the requested effective date of the amendment(s);

(3) A certified copy of the resolution of the board of directors of the association approving the amendment(s);

(4) Any additional information or documents that the association wishes to submit in support of the request or that may be requested by the supervising bank.

(b) Upon receipt of an amendment request from an association, the supervising bank shall review the materials submitted to determine

whether they are responsive to these regulations and shall communicate with the association concerning any deficiency. The bank shall forward the request with attachments, to the Farm Credit Administration, together with the bank's recommendation on the request, the reasons for the recommendation, and any analysis the bank believes appropriate.

(c) Upon receipt of an association's request for a charter amendment forwarded by a supervising bank, the Farm Credit Administration shall review the materials submitted and either approve or disapprove the request. The Farm Credit Administration may require submission of any supplemental materials it deems appropriate.

(d) The Farm Credit Administration shall notify the supervising bank of its approval or disapproval of the amendment request, and the supervising bank shall notify the association. A notification of approval shall be accompanied by a copy of the charter, as amended.

§ 611.1122 Requirements for mergers or consolidations.

This section shall apply to any request for approval of a proposed merger or consolidation of associations. A merger involves the combination of one or more associations into a continuing constituent association, which retains its charter and bylaws (except as amended to effect the merger proposal). A consolidation involves the combination of two or more associations into a newly organized association having a new charter and bylaws.

(a) Where two or more associations plan to merge or consolidate, the constitutent associations shall jointly submit a request to their supervising bank containing the following:

(1) In the case of a merger, a copy of the charter of the continuing association reflecting any proposed amendments. In the case of consolidation, a copy of the proposed charter of the new association;

(2) A statement of the reasons for the proposed merger or consolidation, the impact of the proposed transaction on the associations and their stockholders, and the planned effective date of the merger or consolidation;

(3) A certified copy of the resolution of the board of directors of each association approving the merger or consolidation;

(4) A copy of the agreement of merger or consolidation;

(5) All of the information specified in paragraph (e) of this section; and

(6) Any additional information or documents each association wishes to submit in support of the request or that the supervising bank or the Farm Credit Administration requests.

(b) Upon receipt of a request for approval of an association merger or consolidation, the supervising bank shall review the materials submitted to determine whether they are responsive to these regulations and shall communicate with the associations concerning any deficiency. When the bank preliminarily approves the request to merge or consolidate, it shall forward the request with attachments to the Farm Credit Administration, together with:

(1) A statement of the reasons for the bank's approval and any analysis the bank believes appropriate; and

(2) Statistical data for each constituent association on credit quality and loan-related assets based on a credit review completed by the supervising bank no earlier than 180 days prior to the date the request for clearance is forwarded to the Farm Credit Administration. The data shall include, at a minimum, the percentage and amount of adversely classified loans. The Farm Credit Administration may waive the 180-day requirement if, in its judgment, the most recent credit review completed by the bank appropriately reflects the credit quality of the loan protfolio of each constituent association as of the date of the request for preliminary approval.

(c) Upon receipt of an association merger or consolidation request from a supervising bank, the Farm Credit Administration shall review the request and either deny or give its preliminary approval to the request. When a request is denied, written notice stating the reasons for the denial shall be transmitted to the bank, and thereafter by the bank to the constituent associations. When a request is preliminarily approved, written notice of the preliminary approval shall be given to the bank, and thereafter by the bank to the constituent associations. Preliminary approval by the bank or the Farm Credit Administration shall not constitute a definitive approval of the merger or consolidation. Final approval of a merger or consolidation shall be only pursuant to paragraph (g) of this section.

(d) Upon receipt of preliminary approval by the Farm Credit Administration of a merger or consolidation request, each constituent association shall call a meeting of its voting stockholders. The meeting shall be called on written notice to each stockholder entitled to vote on the transaction, and held in accordance with the terms of each association's bylaws. The affirmative vote of a majority of the voting stockholders of each association present and voting or voting by written proxy at a meeting at which a quorum is present shall be required for stockholder approval of a merger or consolidation proposal.

(e) One notice of the meeting to consider and act upon a proposed merger or consolidation of associations shall be accompanied by the following information covering each constituent association:

(1) A statement either on the first page of the materials or on the notice of the stockholders' meeting, in capital letters and bold face type, that:

THE FARM CREDIT ADMINISTRATION HAS NEITHER APPROVED NOR PASSED UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION ACCOMPANYING THE NOTICE OF MEETING OR PRESENTED AT THE MEETING AND NO REPRESENTATION TO THE CONTRARY SHALL BE MADE OR RELIED UPON.

(2) A description of the material provisions of the agreement of merger or consolidation and the effect of the proposed merger or consolidation on the associations, their stockholders, the new or continuing board of directors, and the territory to be served. In addition, a copy of the agreement must be furnished with the notice to stockholders.

(3) A summary of the provisions of the charter and bylaws of the continuing or new association that differ materially from the existing charter or bylaw provisions of the constituent associations.

(4) A brief statement by the boards of directors of the constituent associations of the basis for the recommendation that stockholders approve the merger or consolidation.

(5) A description of any agreement or arrangement between a constituent association and any of its officers relating to employment or termination of employment and arising from the merger or consolidation.

(6) A presentation of the following financial data:

(i) A balance sheet and income statement for each constituent association for each of the 2 preceding fiscal years.

(ii) A balance sheet for each constituent association as of a date within 90 days of the date the request for preliminary approval is forwarded to the Farm Credit Administration presented on a comparative basis with the corresponding period of the prior fiscal year.

(iii) An income statement for the interim period between the end of the

last fiscal year and the date of the required balance sheet presented on a comparative basis with the corresponding period of the preceding fiscal year. The balance sheet and income statement format shall be that contained in the association's annual report to stockholders; shall contain any significant changes in accounting policies that differ from those in the latest association annual report to stockholders; and shall contain appropriate footnote disclosures, including data relating to nonperforming loans and related assets and allowance for loan losses, including net chargeoffs as required in paragraph (e)(10) of this section.

(7) The financial statements (balance sheet and income statement) shall be in sufficient detail to show separately all significant categories of interest-earning assets and interest-bearing liabilities and the income or expense accrued thereon.

(8) Attached to the financial statements for each constituent association, either:

(i) A statement signed by the chief executive officer and each member of the board of directors of the association that the various financial statements are unaudited, but have been prepared in all material respects in accordance with generally accepted accounting principles (except as otherwise disclosed therein) and are, to the best of the knowledge of the board, a fair and accurate presentation of the financial condition of the association; or

(ii) A signed opinion by an independent certified public accountant that the various financial statements have been examined in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as were considered necessary in the circumstances, and, as of the date of the statements, present fairly the financial position of the association in conformity with generally accepted accounting principles applied on a consistent basis, except as otherwise noted thereon.

(9) A presentation for each constituent association regarding its policy on accounting for nonperforming loans together with the number and dollar amount of loans in all nonperforming loan categories, including all nonaccrual, restructured or reduced rate loans, and other high risk loans.

(10) Information on each constituent association concerning the amount of loans changed off in each of the 2 fiscal years preceding the date of the balance sheet, the current year-to-date net chargeoff amount, and the balance in the allowance for loan losses account and a statement regarding whether, in the opinions of management, the allowance for loan losses is adequate to absorb the risk currently existing in the loan portfolio. This information may be appropriately included in the footnotes to the financial statements.

(11) A pro forma balance sheet of the continuing or consolidated association presented as if the merger or consolidation had occurred as of the date on the balance sheets required in paragraph (e)(6) of this section, as recommended to the stockholders. A pro forma summary of earnings for the continuing or consolidated association presented as if the merger or consolidation had been effective at the beginning of the interim period between the end of the last fiscal year and the date of the balance sheets.

(12) A description of the type and dollar amount of any financial assistance that has been provided during the past year or will be provided by the supervising bank or other party to assist the constituent or the continuing or new association(s), the conditions on which financial assistance has been or will be extended, the terms of repayment or retirement, if any, and the impact of the assistance on the subject association(s) or the stockholders.

(13) A presentation for each constituent association of interest rate comparisons for the last 2 fiscal years preceding the date of the balance sheet, together with a statement of the continuing or new association's proposed interest rate and fee programs, interest collection policies, capitalization rates, dividends or patronage refunds, and other factors that would affect a borrower's cost of doing business with the continuing or new association. Where agreement has not been reached on such matters, current related information shall be presented for each constituent association.

(14) A description for each constituent association of any event subsequent to the date of the financial statements, but prior to the merger or consolidation vote, that would have a material impact on the financial condition of the constituent or continuing or new association(s).

(15) A statement of any other material fact or circumstance that a stockholder would need in order to make an informed decision on the merger or consolidation proposal, or that is necessary to make the required disclosures not misleading.

(16) Where proxies are to be solicited, a form of written proxy, together with instructions on the purpose and authority for its use, and the proper method for signature by the stockholder.

(f) No bank or association, or director, officer, or employee thereof, shall make any untrue or misleading statement of a material fact, or fail to disclose any material fact necessary under the circumstances to make statements made not misleading, to a stockholder of any association in connection with an association merger or consolidation.

(g) Upon arrival of a proposed merger or consolidation by the stockholder of the constituent associations, a certified copy of the stockholders' resolution shall be forwarded to the supervising bank for transmittal to the Farm Credit Administration, together with the bank's final approval of the merger or consolidation. The merger or consolidation shall be effective when thereafter finally approved and on the date as specified by the Farm Credit Administration. Notice of final approval shall be transmitted to the supervising bank and thereafter by the bank to the constituent associations.

(h) No director, officer, or employee of a bank or an association shall make an oral or written representation to any person that a preliminary or final approval by the Farm Credit Administration of an association merger or consolidation constitutes, directly or indirectly, either a recommendation on the merits of the transaction or an assurance concerning the adequacy or accuracy of any information provided to any association's stockholders in connection therewith.

(i) The notice and accompanying information required under paragraph (e) of this section shall not be sent to stockholders until cleared by the Farm Credit Administration.

(j) Where a proposed merger or consolidation will involve more than three associations, the Farm Credit Administration may require the supplementation, or allow the condensation or omission of any information required under paragraph (e) of this section in furtherance of meaningful disclosure to stockholders. Any waiver sought under this paragraph shall be obtained before preparation of the financial statements and accompanying schedules required under paragraph (e) of this section.

§ 611.1123 Merger or consolidation agreements.

(a) Like associations operating under the same title of the Act may merge or consolidate voluntarily only pursuant to a written agreement. The agreement shall set forth all of the terms of the

transaction, including, but not limited to, the following:

(1) The proposed effective date of the merger or consolidation.

(2) The proposed name and headquarters location of the continuing or consolidated association.

(3) The names of the persons nominated to serve as directors until the first regular annual meeting of the continuing or consolidated association to be held after the effective date of the merger or consolidation. Any director of a constituent association may be designated in the agreement to serve as a director of the continuing or consolidated association for a period not to exceed his or her current term, after which he or she must stand for reelection. However, the terms of the agreement must provide for the election of at least one director at each annual meeting subsequent to the effective date of the merger or consolidation. The bylaws of the continuing or consolidated association shall reflect the provisions of the merger or consolidation agreement regarding director terms.

(4) A statement of the formula to be used to exchange the stock of the constituent associations for the stock of the continuing or consolidated association. No fractional shares of stock shall be issued.

(5) A statement of any conditions which must be satisfied prior to the effective date of the proposed transaction, including but not limited to approval by stockholders, the supervising bank, and the Farm Credit Administration.

(6) A statement of the representations or warranties, if any, made or to be made by any association, or its officers, directors, or employees that is a party to the proposed transactions.

(7) A statement of the rights of the constituent associations to terminate the agreement before the effective date.

(8) A description of the legal opinions or rulings (including those related to tax matters), if any, that have been obtained or furnished by any party in connection with the proposed transaction. Also, refer to paragraph (a)(5) of this section.

(9) A statement of the authority of those persons designated to carry out the terms of the agreement, including the authority to waive provisions of the agreement and to execute any documents necessary to perfect title, on behalf of the constituent associations.

(b) As an attachment to the agreement, set forth those provisions of the charter and bylaws of the continuing or consolidated association which differ from the existing charter or bylaw provisions of the constituent associations.

§ 611.1124 Territorial adjustments.

Territorial adjustments are subject to the following requirements:

(a) All stockholders, participation certificate holders, and borrowers whose real estate or operations are located in adjusted territories shall be informed in writing of the territory adjustment, and the transfer of their loans to the transferee association. All loans of the transferor association which finance operations located in the transferred territory must be transferred to the transferee association unless otherwise approved by the Farm Credit Administration. Also, the stockholders, participation certificate holders, and borrowers shall be notified of the transfer of their loans and the exchange of related equities for equities of like kinds and amounts in the transferee association. If a like kind of equity is not available in the transferee association, similar equities shall be offered which will not affect adversely the interest of the owner. Each stockholder shall be informed that the latest financial and related information of the associations is available for stockholders' review upon written request.

(b) The Agreement of Transfer of Territory and the Notice of Territory Transfer shall give stockholders 60 days from the date of the notice to notify either association in writing of their decision to decline acceptance of the equities of the transferee association and to remain with the transferor association for normal servicing until the current loan is paid. Any application by the borrower for renewal or for additional credit shall be made to the transferee association, except for those applications permitted under § 614.4070 of this chapter.

(c) This section shall not apply to territorial transfers initiated by order of the Governor of the Farm Credit Administration or to territories transferred due to the liquidation of the transferor association.

§ 611.1125 Association articles and bylaws.

Upon request by a stockholder, the association shall provide a copy of the Articles and bylaws of the association to the stockholder.

4. Sections 611.1150 and 611.1160 of Subpart F are redesignated as a new Subpart H and § 611.1160 is redesignated as § 611.1151, the table of contents to read as follows:

Subpart H—Service Organizations

Sec.

611.1150 Incorporation of service organizations.

611.1151 Incorporated and unincorporated service organizations.

Donald E. Wilkinson,

Governor.

[FR Doc. 85-11836 Filed 5-15-85; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-CE-5-AD; Amdt. 39-5064]

Airworthiness Directives; Cessna Models 206, P206, U206, 207 and 210 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Cessna Models 206, P206, U206, 207 and 210 Airplanes, which require inspection, repair and/or modification of the engine induction airbox installation. Loss of engine power has resulted from pieces of the lower forward induction airbox separating from the bottom of the duct and being ingested by the engine. This action will preclude engine power loss caused by induction airbox failures.

EFFECTIVE DATE: June 20, 1985.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Cessna Single-Engine Customer care Service Information Letter, SE84-20 dated November 2, 1984, applicable to this AD may be obtained from Cessna Aircraft Company, Piston Aircraft Marketing Division, Post Office Box 1521, Wichita, Kansas 67201. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Paul O. Pendleton, Aerospace Engineer, Aircraft Certification Office, ACE-140W, FAA, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone 316-946-4427.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspection, modification and/or replacement of the engine induction airbox installation in certain Cessna 200 airplanes was published in the **Federal Register** on February 28, 1985 (50 FR 8137). This proposal resulted from three

accidents and several incidents involving failure of the lower skin of the engine induction airbox on normally aspirated (non-turbocharged) airplanes. It has been determined that the lower skin failures resulted in airbox fragments being ingested by the engine which effectively blocks the throttle valve and restricts induction air causing a loss of power. These reports indicate that the cracked conditions are not being detected during normal inspection and/or maintenance of the engine installation. In 1981, Cessna Aircraft Company made a production design change on the induction airbox outboard duct by increasing the lower skin thickness from .032 to .040 inches.

To improve in-service airplane airbox integrity and prevent further failures of the airbox, which may result in engine power loss, Cessna Aircraft Company has issued Single Engine Customer Care Service Information Letter SE84–20 dated November 2, 1984, making available for in-service airplanes the improved induction airbox outboard duct having the increased thickness bottom skin. Since this condition is likely to exist or develop in other airplanes of the same type design, the NPRM proposed visual inspections of the outboard induction air duct for cracks and if found, replacement with a new part per the Service Letter or repair of the existing part on certain Cessna Models 206, P206, U206, 207 and 210 airplanes.

Interested person have been afforded an opportunity to comment on the proposal. Two commenters responded. Both commenters concurred with issuance of the AD in its proposed form. However, one commenter stated that the significance of the problem was not specified or documented in the proposed rule. This commenter also stated that the desired information it obtained from the FAA Aircraft Certification Office should have been included in the NPRM. The FAA believes that justification for the proposed rule was adequately set forth in the Notice. In addition more detailed information was available to any interested party as stated in the Paragraph titled **"FOR FURTHER INFORMATION CONTACT:"** Which includes the name and phone number of the FAA, ACO and person directly involved with the proposal. Therefore, the FAA does not concur with this comment.

This commenter also disagreed with the FAA position on the cost to the public for AD compliance being only the initial inspection. The repetitive inspections and eventual parts replacement were in the commenters opinion also included as AD compliance costs. The FAA believes that only the initial inspection is related to the AD compliance because the airplanes may have to have this inspection performed out of sequence with normal inspection intervals. The remaining inspections and eventual parts replacement are (as stated below) expected to be performed in the normal course of proper airplane maintenance and should not be associated with the AD. Therefore, the FAA does not agree with this comment for the reasons stated.

Subsequent to publication of the NPRM, the FAA determined that the repair procedures of paragraph (b) of the proposal should specify a minimum thickness for the repair material. Accordingly, the proposal is adopted without change except for the addition of a minimum thickness specification for the repair procedures.

Discussion

There are approximately 8,000 airplanes affected by the proposed AD at an initial inspection cost of $15 per airplane. Eventually all airplanes are expected to be modified at an approximate cost of $300 per airplane. However, only the initial inspection is considered to constitute unscheduled expense as the repetitive inspection and eventual repair or replacement expenses are considered to be absorbed in the normal cost of airplane operation. Accordingly, the estimated total cost to the private sector of compliance with the proposed AD is $120,000. This cost of compliance with the AD is so small that the expense of compliance will not have a significant financial impact on any small entities operating these airplanes. Therefore, I certify that this action'(1) Is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979 and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final regulatory evaluation has been prepared and has been placed in the public docket. A copy of it may be otained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES"**.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13 is amended by adding the following new AD.

Cessna: Applies to Models 206, U206, U206A, U206B, U206C, U206D, U206E, U206F and U206G, (S/Ns 206–0001 thru U20606065); P206, P206A, P206B, P206C, P206D, and P206E, (S/Ns P206–0001 thru P20600647); 207 and 207A, (S/Ns 20700001 thru 20700661); 210D, 210E, 210F, 210G, 210H, 210J, 210K, 210L, 210M and 210N (S/Ns 21058221 thru 21064226) airplanes certificated in any category which are equipped with Continental Model IO-520–() engines.

Compliance: Required within 100 hours time-in-service after the effective date of this AD and each 100 hours time-in-service thereafter, until modified in accordance with paragraph (b) of the AD. To eliminate the possibility of engine power reduction due to ingestion of pieces of a failed engine induction airbox outboard duct, accomplish the following:

(a) Visually inspect the engine induction airbox outboard duct lower skin for cracks.

(b) If cracks are found, prior to further flight, either replace the induction airbox outboard duct with a Cessna Part Number 1250705–6 duct or repair the skin of the existing duct in accordance with the repair procedures of FAA Advisory Circulars AC 43.13–1A and AC 43.13–2A using material at least .040 inches thick.

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

Cessna Single Engine Customer Care Service Information Letter SE84–20 dated November 2, 1984, covers the subject matter of this AD.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and § 11.89 of the Federal Aviation Regulations (14 CFR 11.89)

This amendment becomes effective on June 20, 1985.

Issued in Kansas city, Missouri, on May 6, 1985.

Murray E. Smith

Director, Central Region.

[FR Doc. 85–11792 Filed 5–15–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket Nos. 84–AWA–13 and 84–AWA–14]

Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: An error was discovered in the descriptions of new Federal Airways V–554 (50 FR 14089) and V–570 (50 FR 14091) published in the **Federal Register**

on April 10, 1985. This action corrects those errors.

EFFECTIVE DATE: 0901 GMT, June 6, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Brent A. Fernald, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

History

Federal Register Documents 85-8592 and 85-8593 were published on April 10, 1985, which redesignated, revoked and established new segments of VOR Federal Airways to enhance the traffic flow within the Albuquerque, Fort Worth, Houston and Memphis Air Route Traffic Control Centers' areas. A mistake was discovered in the descriptions of new airways V-554 and V-570, and this action corrects those errors.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, Federal Register Documents 85-8592 and 85-8593, as published in the Federal Register on April 10, 1985, (50 FR 14089 and 14091) are corrected by revising the descriptions of the following airways:

1. The authority citation for Part 71 is revised to read as follows:

Authority: 49 U.S.C. 1348(a) and 1354(a); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.69; and 1.47.

2. Section 71.123 is amended as follows:

V-554 [Revised]

From Natchez, MS, via INT Natchez 310° and Monroe, LA, 160° radials; to Monroe.

V-570—[Revised]

From Alexandria, LA, via Natchez, MS; to McComb, MS.

Issued In Washington, D.C., on May 9, 1985.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-11789 Filed 5-15-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 83C-0051]

Listing of Color Additives For Coloring Contact Lenses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for the safe use of an orange dye, C.I. Vat Orange 1 (previously referred to by FDA as dibromodibenzo(*b,def*)chrysene-7,14-dione), for coloring contact lenses. This action responds to a petition filed by Custom Tint Laboratories, Inc.

DATES: Effective June 17, 1985, except as to any provisions that may be stayed by the filing of proper objections; objections by June 17, 1985.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the Federal Register of June 17, 1983 (48 FR 27834), FDA announced that a color additive petition (CAP 3C0169) had been filed by Custom Tint Laboratories, Inc., 6020 Six Forks Rd., Raleigh, NC 27609, proposing that the color additive regulations be amended to provide for the safe use of six color additives, including dibromodizenzo(*b,def*)chrysene-7,14-dione, for coloring contact lenses. The petition was filed under section 706 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 376.)

In the Federal Register of July 8, 1983 (48 FR 31374), FDA amended the color additive regulations by listing four of the color additives named in the June 17, 1983 notice. In the July 1983 final rule, as corrected in the Federal Register of September 28, 1983 (48 FR 44202), FDA deferred final action with respect to the color additives dibromodibenzo(*b,def*)chrysene-7,14-dione and 6,6'-diethoxy-2,2'-[3*H*3'*H*]bibenzo[*b*]thiophene-3,3'-dione. The agency is again deferring final action on the latter color additive pending receipt and evaluation of additional studies.

After careful consideration of the description of the substance it has referred to as "dibromodibenzo(*b,def*)chrysene-7,14-dione," FDA has decided that this substance, which imparts a yellowish orange color, is more properly called "C.I. Vat Orange 1." This change in nomenclature is appropriate because the color additive is really a complex mixture with dibromodibenzo(*b,def*)chrysene-7,14-dione as the principal, but not the only, component. The Colour Index number for C.I. Vat Orange 1 is 59105. This document announces FDA's decision on the safety of the use of C.I. Vat Orange 1.

II. Applicability of the Act

With the passage of the Medical Device Amendments of 1976 to the act (Pub. L. 94-295), Congress mandated the listing of color additives for use in medical devices where the color additive comes in direct contact with the body for a significant period of time (21 U.S.C. 376(a)). The use of the color additive presented in the petition now before the agency is subject to this listing requirement. The color additive is added to contact lenses in such a way that at least some of the additive will come in contact with the eye when the lenses are worn. In addition, the lenses are intended to be placed in the eye for several hours a day each day for 1 year or more. Thus, the color additive will be in direct contact with the body for a significant period of time.

III. Analysis of Data

A. Safety of the Color Additive

1. Legal Standard

Under section 706(b)(4) of the act, the so-called "general safety clause" for color additives, a color additive cannot be listed for a particular use unless the data presented to FDA establish that the color additive is safe for that use. Although what is meant by "safe" is not explained in the general safety clause,

the legislative history makes clear that this word is to have the same meaning for color additives as for food additives.

Safety is defined in the legislative history for the Food Additives Amendment of 1958 as a "reasonable certainty that no harm will result from a proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstance." S. Rept. 2422, 85th Cong., 2d Sess. 6 (1958). This concept of safety is incorporated in FDA's color additive regulations (21 CFR 70.3(i)). In addition, the anticancer or Delaney Clause of the Color Additive Amendments (section 706(b)(5)(B) of the act) provides that a color additive shall be deemed unsafe and shall not be listed if it is found, after tests that are appropriate for the evaluation of the safety of the additive, to induce cancer in man or animal.

2. Exposure

FDA concludes from the data submitted and from other relevant information that the upper limit of exposure to C.I. Vat Orange 1 from its use in coloring contact lenses is 270 nanograms per day. The agency calculated this upper limit of exposure based on the following factors: First, based on the information submitted by the petitioner, FDA estimated that the maximum use level of C.I. Vat Orange 1 is 50 micrograms per lens (Ref. 1). Second, the agency made two worst-case assumptions: (1) That a user will replace lenses tinted with C.I. Vat Orange 1 once each year with a new pair of lenses tinted with C.I. Vat Orange 1 at the maximum use level, and (2) that 100 percent of the color additive migrates from these lenses into the eye over the 1-year period. Because these assumptions are worst case, exposure to C.I. Vat Orange 1 from its use for coloring contact lenses is likely to be far less than 270 nanograms per day.

3. Toxicology

When presented with a substance whose use will result in the extremely low levels of exposure that the agency estimates will result from the use of C.I. Vat Orange 1 in contact lenses, FDA does not ordinarily consider chronic toxicity testing to be necessary to determine the safety of its use (Ref. 2). FDA has not required such testing here, and no data have been submitted that show this color additive to be a carcinogen. Therefore, the Delaney Clause has no application to this proceeding.

FDA did require the petitioner to conduct an in vitro cytotoxicity test on C.I. Vat Orange 1 and primary ocular irritation studies in rabbits with saline extracts of the tinted lens material. These studies showed no ocular irritation from the saline extracts and no adverse effects in the in vitro cytotoxicity testing.

B. Carcinogenic Constituent

1. C.I. Vat Yellow 4

C.I. Vat Orange 1 may contain a minor amount of the carcinogenic impurity C.I. Vat Yellow 4 (dibenzo(*b, def*)chrysene-7,14-dione). C.I. Vat Orange 1 is manufactured by dibromination of C.I. Vat Yellow 4. Residual amounts of starting materials, such as C.I. Vat Yellow 4, are commonly found among the constituents of a color additive.

In a bioassay conducted for the Carcinogenesis Testing Program of the National Cancer Institute (NCI) (DHEW Publication No. (NIH) 79–1389), a C.I. Vat Yellow 4 commercial formulation was found to be carcinogenic for male B6C3F1 mice, causing an increased incidence of lymphomas. Under the conditions of the bioassay, the formulation was not carcinogenic for male or female Fischer 344 rats or for female B6C3F1 mice. The tested formulation contained 18.2 percent C.I. Vat Yellow 4.

Among male mice in that bioassay, lymphomas occurred at incidences that were dose related ($p=0.002$). Furthermore, in a direct comparison, the incidence of the tumor in the high-dose group was significantly higher ($p=0.019$) than that in the control group (controls 3/20, or 15 percent; low-dose 7/47, or 15 percent; high-dose 22/50, or 44 percent). The incidence of lymphomas and leukemias in historical-control male B6C3F1 mice at the testing laboratory, NCI Frederick Cancer Research Center, Frederick, MD, was 38/323 (12 percent).

2. Prior Action

In the past, FDA often refused to list a color additive that contained or was expected to contain minor amounts of a carcinogenic chemical, even if the additive as a whole had not been shown to cause cancer. The agency now believes, however, that scientific developments and experience with risk assessment procedures make it possible for FDA to approve the use of an additive that contains a carcinogenic chemical but that has not itself been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6 published in the **Federal Register** of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been shown to cause cancer, even though it contains a carcinogenic constituent. Since that decision, FDA has listed, on the same basis, the uses of several other color additives that contain carcinogenic impurities, including the use of D&C Green No. 6 for coloring contact lenses (48 FR 13020; March 29, 1983) and the use of D&C Green No. 5 (47 FR 24278; June 4, 1982) and of D&C Red No. 6 and D&C Red No. 7 (47 FR 57681; December 28, 1982) for coloring drugs and cosmetics. (See also the advance notice of proposed rulemaking published in the **Federal Register** of April 2, 1982 (47 FR 14464.)

The appropriateness of FDA's decision to list the uses of these color additives is supported by *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which contains a carcinogenic chemical but has not itself been shown to cause cancer. Relying heavily on the reasoning in the agency's decision, the United States Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

The Delaney or anti-cancer clause is not triggered unless the color additive as a whole is found to induce cancer. An additive that has not been shown to induce cancer but that contains a carcinogenic constituent is properly evaluated under the general safety clause of the statute, using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive.

C. Risk Assessment

Using risk assessment procedures to estimate the upper limit lifetime risk presented by the use of C.I. Vat Orange 1 with the expected impurity, the agency has concluded that the color additive is safe under the proposed conditions of use. The risk evaluation consists of two parts: (1) Estimation of exposure to C.I. Vat Yellow 4 from the use of C.I. Vat Orange 1 for tinting contact lenses and (2) extrapolation of the risk from C.I. Vat Yellow 4 observed in the NCI bioassay of that substance to the conditions of exposure in humans.

As explained above, the agency has estimated that the upper limit of exposure to C.I. Vat Orange 1 from its use for tinting contact lenses is 270 nanograms per day. Based on the reaction mechanism for bromination of aromatic compounds, the agency's experience with other brominated color additives, and the extent of bromination of C.I. Vat Orange 1 (bromine content of C.I. Vat Orange 1 is approximately 28

percent, i.e., approximately 1.7 bromines per molecule), the agency concludes that less than 3 percent residual C.I. Vat Yellow 4 will remain in C.I. Vat Orange 1. Based on the 3 percent maximum residual level for C.I. Vat Yellow 4 and the estimated upper limit exposure to C.I. Vat Orange 1 of 270 nanograms per day, the agency estimates an upper limit lifetime-average individual exposure of 8 nanograms per day for C.I. Vat Yellow 4.

FDA has estimated the risk from the C.I. Vat Yellow 4 impurity from use of C.I. Vat Orange 1 for coloring contact lenses by extrapolating from the risk observed at the level of exposure in the NCI-sponsored animal studies to the very low levels of estimated exposure for humans. In this extrapolation, the agency has used a quantitative risk assessment procedure (linear proportional model) similar to the methods used to examine the risk associated with the presence of minor carcinogenic impurities in D&C Green No. 6 and the other color additives mentioned above. This procedure is not likely to underestimate the actual risk from very low doses. In fact, the estimate of the risk may be exaggerated because the extrapolation models used are designed to estimate the maximum risk consistent with the data. For this reason, the estimate can be used with confidence to determine to a reasonable certainty whether any harm will result from the use of this color additive.

Under this procedure, the upper limit individual lifetime risk from exposure to C.I. Vat Yellow 4 at the level calculated to be the upper limit estimated daily exposure is 3×10^{-11} or less than 1 in 35 billion from the proposed use. Because of numerous conservatisms in the exposure estimate, lifetime-averaged individual exposure is expected to be substantially less than the upper limit estimated daily exposure. Thus, the agency concludes that there is a reasonable certainty of no harm from the exposure to the constituent that results from the use of C.I. Vat Orange 1 in contact lenses.

IV. Certification and Specification Considerations

Based on its consideration of the factors listed in § 71.20(b) (21 CFR 71.20(b)), the agency concludes that certification of C.I. Vat Orange 1 is not necessary for the protection of the public health.

The agency has considered whether a specification is necessary to control the amount of C.I. Vat Yellow 4 that may exist as an impurity in the color additive. The agency finds that a specification is not necessary because the upper limit lifetime risk from exposure to the constituent is very low. In addition, exposure to C.I. Vat Orange 1 from use for tinting contact lenses is likely to be substantially less than the estimated upper limit exposure of 270 nanograms per day. Also, the bromination process used to manufacture C.I. Vat Orange 1 (containing approximately 28 percent bromine by weight) is likely to result in substantially less than 3 percent residual C.I. Vat Yellow 4.

V. Conclusion

Based upon the available toxicity data, the small amount of the color additive added to the contact lens, the agency's exposure calculation, and the extremely low risk from the presence of the constituent, FDA finds that the color additive C.I. Vat Orange 1 is safe for use in contact lenses.

In accordance with § 71.15(a) (21 CFR 71.15(a)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in § 71.15(b), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting this finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

VI. References

The following references have been placed on display in the Dockets Management Branch and can be reviewed by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum for the Record, November 28, 1984, concerning "CAP 3C0169—Exposure Estimate for Vat Orange 1."

2. Kokoski, C. J., "Regulatory Food Additive Technology," presented at the Second International Conference on Safety Evaluation and Regulation of Chemicals, October 24, 1983, Cambridge, MA.

VII. Objections

Any person who will be adversely affected by the regulation may at any time on or before June 17, 1985 file with the Dockets Management Branch (address above) written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of 21 CFR 71.30. If a hearing is requested, the objection shall state the issues for the hearing and shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Three copies of all documents shall be filed and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. Notice of the filing of objections or lack thereof will be announced by publication in the Federal Register.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 73 is amended as follows:

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

1. The authority citation for Part 73 is revised to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

2. By adding new § 73.3112 to Subpart D, to read as follows:

§ 73.3112 C.I. Vat Orange 1.

(a) *Identity.* The color additive is C.I. Vat Orange 1, Colour Index No. 59105.

(b) *Uses and restrictions.* (1) The substance listed in paragraph (a) of this section may be used as a color additive in contact lenses in amounts not to exceed the minimum reasonably required to accomplish the intended coloring effect.

(2) Authorization for this use shall not be construed as waiving any of the requirements of sections 510(k), 515, and 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) with respect to

the contact lens in which the color additive is used. A person intending to introduce a device containing C.I. Vat Orange 1 into commerce shall submit to the Food and Drug Administration either a premarket notification in accordance with Subpart E of Part 807 of this chapter, if the device is not subject to premarket approval, or submit and receive approval of an original or supplemental premarket approval application if the device is subject to premarket approval.

(c) *Labeling.* The label of the color additive shall conform to the requirements of § 70.25 of this chapter.

(d) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore the color additive is exempt from the certification requirements of section 706(c) of the act.

Dated: May 10, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-11928 Filed 5-14-85; 10:47 am]

BILLING CODE 4160-01-M

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21 CFR Part 81

[Docket No 76N-0366]

Provisional Listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 For Use in Externally Applied Drugs and Cosmetics; Postponement of Closing Date

Correction

In FR Doc. 85-7768, beginning on page 13017, in the issue of Tuesday, April 2, 1985, make the following correction.

On page 13018 in the second column, in the fourth line of the authority citation, "476" should read "376".

BILLING CODE 1505-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of 13 supplemental new animal drug applications (NADA's) filed for as many sponsoring firms providing for manufacturing premixes containing 5, 10, 20, or 40 grams per pound each of tylosin and sulfamethazine. The premixes are subsequently used to make finished swine feeds.

EFFECTIVE DATE: May 16, 1985.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: The following 13 firms are sponsors of the indicated supplemental NADA's submitted on their behalf by Elanco Products Co.:

NADA and Sponsoring Firm

1. 97-615 Golden Sun Feeds, Inc., 111 South 5th St., Estherville, IA 51334.
2. 97-981 Quali-Tech, Inc., 318 Lake Hazeline Dr., Chaska, MN 55318.
3. 109-816 International Nutrition, Inc., 6664 L St., Omaha, NE 68117.
4. 122-522 Custom Feed Blenders Corp., 540 Hawkeye Ave., Fort Dodge, IA 50501.
5. 124-391 Ag-Mark, Inc., P.O. Box 127, Teachey, NC 28464.
6. 127-506 Heinold Feeds, Inc., P.O. Box 377, Kouts, IN 46347.
7. 127-507 Carl S. Akey, Inc., P.O. Box 607, Lewisburg, OH 45338.
8. 128-835 Old Monroe Elevator & Supply Co., Inc., Old Monroe, MO 63369.
9. 129-159 Custom Feed Services Corp., 2100 North 13th St., Norfolk, NE 68701.
10. 129-161 Nutra-Blend Corp., P.O. Box 485, Neosho, MO 64850.
11. 129-645 Dale Alley Co., P.O. Box 444, 222 Sylvanie St., St. Joseph, MO 64502.
12. 129-646 I.M.S., Inc., 13619 Industrial Rd., Omaha, NE 68137.
13. 130-465 Growmark, Inc., 1701 Towanda Ave., Bloomington, IL 61701.

The indicated supplemental NADA's provide for manufacture of premixes containing 5, 10, 20, or 40 grams per pound each of tylosin (as tylosin phosphate) and sulfamethazine intended for subsequent making of finished swine feeds. The resulting feeds will be used to maintain weight gains and feed efficiency in the presence of atrophic rhinitis, lower the incidence and severity of *Bordetella bronchiseptica* rhinitis, prevent swine dysentery (vibrionic), and control swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and/or *Corynebacterium pyogenes).* The supplemental NADA's are approved and the regulations are amended to reflect the approvals. The basis for approval is discussed in their freedom of information summaries.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Center for Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10.

2. In § 558.630 in paragraph (b)(3) by removing "024174" and "046987"; in paragraph (b)(8) by removing "016968"; and by revising paragraph (b)(9) and adding new paragraph (b)(10) to read as follows:

§ 558.630 Tylosin and sulfamethazine.

* * * * *

(b) * * *

(9) To 012286, 022422, and 051359: 5 grams per pound each, paragraph (f)(2)(ii) of this section.

(10) to 016968, 017473, 017790, 018083, 020275, 021780, 024174, 026946, 043727, 043733, 046987, 050568, and 050639: 5, 10, 20, or 40 grams per pound each, paragraph (f)(2)(ii) of this section.

* * * * *

Effective date. May 16, 1985.

Dated: May 7, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85-11799 Filed 5-15-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-205 Re: Notice No. 538]

The Hamptons, Long Island Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area known as The Hamptons, Long Island, located in Suffolk County on the South Fork of Eastern Long Island, New York. The viticultural area includes all of the land areas in the Townships of Southampton and East Hampton. The petition was submitted by a vineyard/bonded winery owner located within the boundaries of the proposed viticultural area. ATF feels that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers identify the wines they may purchase.

EFFECTIVE DATE: June 17, 1985.

FOR FURTHER INFORMATION CONTACT: Edward A. Reisman, ATF Specialist, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania, Avenue, NW, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. The regulations also allow the name and location of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in Subpart C of Part 9.

Section 4.25a(e)(2), outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

ATF was petitioned by Mr. Lyle Greenfield, owner of the Bridgehampton Winery which is located at Bridgehampton, Long Island, New York for the land area of the South Fork of Eastern Long Island known as "The Hamptons, Long Island." The viticultural area consists of all of the land found in the Townships of Southampton and East Hampton (including Gardiners Island) in Suffolk County. The area encompassed by the boundaries consists of 213.2 square miles or 136,448 acres of land that is bounded on the south and east by the Atlantic Ocean. To the north is the Peconic Bay which separates the North Fork of Long Island from The Hamptons. To the west lies the remainder of Long Island where the two forks meet. There are now 55.5 acres of vinifera grapes growing and one bonded winery located within the viticultural area.

The basis for approval of this viticultural area was supported by the following evidence that was submitted by the petitioner:

Historical and current evidence regarding the name and boundaries, provided by the petitioner include:

(a) Historical Evidence of Name

The first English settlers arrived around 1640 to the area now known as The Hamptons. The first town to be established in this area was Southampton which was so named for Henry Wriothesly who was the Earl of Southampton, England. The towns of East Hampton, Bridgehampton, Westhampton and Hampton Bays were established by the late eighteenth century. This area thereafter became known as "The Hamptons," obviously due to the common ending of the major town names and a desire to preserve the area's English heritage. Today this name is commonly used to describe the locality. This is evident by the many publications, businesses and landmark descriptions which use the name "The Hamptons" to distinguish this region from the rest of Long Island, New York.

(1) Viticultural History

For more than 300 years, The Hamptons have been a productive agricultural growing region. Wine grapes had been introduced to Eastern Long Island as early as the 18th Century. Records indicate that vineyards were flourishing in Southampton during Colonial times. Most of the grapes planted in The Hamptons region prior to the 20th Century were cultivated in relatively small vineyards; the grapes and wine which resulted from them were used principally for private consumption. Many of the local Indians, however, may have actually tended vineyards several hundred years earlier.

In 1979, the tradition of grape-growing in The Hamptons region once again came into focus with the installation of 2 vinifera grape plantings.

There are presently 55.5 acres of grapes growing in the viticultural area of which 5 acres are located near the Atlantic Ocean at Sagaponack in the Town of Southampton. All of the grapes are vinifera grapes and almost all of them are now producing a crop.

According to the petitioner, The Hamptons region has potential for vineyard expansion. Current growers are making more land available to them for potential vineyard expansion. In addition, there are still hundreds of acres of prime farmland in the Hamptons region that are available for the planting of grapes in the future.

(b) Evidence of boundaries

The boundaries of "The Hamptons, Long Island" viticultural area may be found on five U.S.G.S. maps. They are titled "Riverhead, N.Y.," 7.5 minute series, scaled at 1:24,000, edition of 1956; "Eastport, N.Y." 7.5 minute series, scaled at 1:24,000, edition of 1956; New York, N.Y.; N.J.; Conn.," U.S. 1:250,000 series, scaled at 1:250,000, edition of 1960, revised 1979; "Providence, R.I.; Mass.; Conn.; N.Y.," U.S. 1:250,000 series, scaled at 1:250,000 edition of 1947, revised 1969; "Hartford, Conn.; N.Y.; N.J.; Mass.," U.S. 1:250,000 series, scaled at 1:250,000, edition of 1962, revised 1975. Having verified the boundaries, ATF agrees that they meet the requirements for approval of "The Hamptons, Long Island" as an American

Viticultural area. The specific description of the boundaries of the viticultural area is found in the regulations which immediately follow this preamble.

Evidence that has been verified by ATF of the geographical characteristics which distinguish "The Hamptons, Long Island" viticultural area from the surrounding areas includes the following information:

The actual geographic area of The Hamptons, although attached to a larger island, may be referred to as a peninsula or fork. This is due to the fact that 3 of it's boundaries are surrounded by water, the Atlantic Ocean to the south and east and the Peconic Bay to the north. The Hamptons region lies entirely in Suffolk County and is governed under the State of New York. The western boundary of The Hamptons, Long Island appellation is the 10 mile long boundary line separating Southampton and Brookhaven Townships. The North Fork consists of the Townships of Riverhead and Southold. The Hamptons (South Fork) consists of the Townships of Southampton and East Hampton (213.2 sq. mi.).

The Hamptons begins roughly where the 2 forks begin to separate. The northern border of The Hamptons has its beginnings at the Peconic River in Riverhead Township and follows the river's path to Peconic Bay. The Peconic Bay accounts for the rest of the northern boundary, meeting the Atlantic Ocean at Montauk Point at the eastern tip of Long Island. Gardiners Island is located off the shore of East Hampton Township. The entire length of The Hamptons is approximately 54 miles from its beginning at the Brookhaven/Southampton Town Line to its end at the tip of Eastern Long Island at Montauk Point. The Hamptons is 10 miles wide at its widest point and less than ½ mile wide at its narrowest point.

(1) Soils

The soils which make up The Hamptons are distinctly different from those of the surrounding areas. The difference in soils occurs fairly abruptly, beginning at the Peconic River and continues eastward to Montauk Point. This also designates the northern boundary for "The Hamptons, Long Island" appellation.

The predominant soil types which are found in the land area north of The Hamptons, commonly known as the North Fork, are as follows:

1. Carver-Plymouth-Riverhead Association. These soils are excessively well-drained and are very sandy. They are located primarily on the perimeter of the North Fork and are usually rolling or sloping in terrain. The natural fertility of these soils is low and the rapid permeability of water through them makes irrigation a desirable option for vineyards in this area.

2. Haven-Riverhead Association. These soils are characteristically deep and somewhat level. They are well-drained and have a medium texture. Most of these soils have a moderate to high water holding capacity and crops respond well to lime and fertilizer when grown in these soils. Due to these factors, this soil association (which is the predominant one of the North Fork) is considered one of the best farming areas in Suffolk County.

The soils of The Hamptons on the other hand are somewhat different and many more soil associations are present:

1. Plymouth-Carver Association. These soils are rolling, hilly, deep and excessively drained. Characteristically, scrub oak and other minor trees are found as cover. Permeability is rapid and natural fertility is low. Most of these soils have never been farmed due to these factors and hence they are known to be poor supporters of crops.

2. Bridgehampton-Haven Association. These soils are deep and excessively drained and have a medium texture. It is its depth, good drainage and moderate to high available water-holding capacity that make this soil well-suited to farming. Most of these areas are currently under cultivation of potatoes and vegetables. These soils are the main reason why potato and vegetable growers in The Hamptons have consistently used less irrigation water than their North Fork counterparts.

3. Montauk-Montauk, Sandy variant—Bridgehampton Association. These soils are deep and usually very sloping. Its steep slopes, irregular topography and a high water table limit the potential of this area for conventional farming, but may be very suitable for supporting grapes. Presently, most of this area is either idle or wooded.

4. Montauk, Sandy Variant—Plymouth Association. These soils are excessively drained and coarse textured. Sloping areas within this association also limit conventional farming practices. This loamy-sand is droughty but contains a black surface layer which is high in organic matter content. There is no indication that grapes cannot be grown on these soils.

5. Montauk-Haven—Riverhead Association. These soils are fairly well-drained and are located mainly on the northern side of The Hamptons along the Peconic Bay. The surface layer is a silt loam, with a fine sandy loam found at deeper levels. These soils are very deep and well suited to cultivation.

6. Dune-Land-Tidal Marsh—Beach Association. The remainder of the soils in The Hamptons consist of these types of soils which make up the beach and marshland areas, both of which are unsuitable for farming.

As was previously stated, the soils of the North Fork and The Hamptons are quite different. At the Town of Riverhead where the forks meet, there is still some slight separation of the different soil associations. To the west of The Hamptons, the soil associations of Long Island tend to become less restricted to a distinct geographic area and much more intermingling and blending of soil series can be found. Along with this fact, there are the soils making up the "spine" of Long Island, known as the "Pine Barrens." These "Pine Barrens" run east and west down the center of Long Island. The Pine Barrens are an untouched pine stand, one of the last wild areas on Long Island. The soils of the "Pine Barrens" can support only short scrubby pine forests. This is the only vegetation found in the light, extremely sandy and unfertile soils found just west of The Hamptons. This land area is the major ground water recharge basin for Suffolk County. This area is presently being considered by New York State for preservation status, due to its importance for Long Island's water supply.

Further west from here through Nassau County and into New York City, the soil associations become more foreign to those found on the eastern end of Long Island. Of major importance, it must also be pointed out that while various soil types found to the west of The Hamptons may be similar to those found there, the encroachment of dense suburban and industrial development on Long Island has made commercial agriculture and land available for it almost non-existent in the townships west of the viticultural area.

The Hamptons contain a greater percentage of silt and loam than the soil series associations found on the North Fork. This accounts for the fact that The Hamptons soils have a greater water-holding capacity than North Fork soils and hence require less irrigation.

(2) Climate

Although The Hamptons and the North Fork are relatively close together, there are many climatic differences which exist between them. These differences are due to the unique topography of the eastern end of Long Island and the relation of the two forks to the Atlantic Ocean.

Most of the climatic data for the eastern end of Long Island is recorded mainly from three weather stations: The Cornell Experimental Station in northern Riverhead (located on the North Fork), the Greenport weather station (located on the North Fork), and the Bridgehampton weather station in The Hamptons (located on the South Fork). The Cornell Station at Riverhead has been recording weather data since the 1950's, while the Bridgehampton Station has been operating for almost half a century.

There are definite climatic differences which exist between the two forks. The winter months are colder on the North Fork. There the colder temperatures average 1½ to 2 degrees (F.) colder than The Hamptons. The reason for this is that the North Fork is further away from the Atlantic Ocean and hence does not receive the warmed southwest winds which come in from the Atlantic Ocean that The Hamptons receive. In the winter, the prevailing winds come from the southwest and are warmed by the Atlantic Ocean. The ocean in the winter has a buffering effect due to its accumulation of heat from the summer and fall months. This wind will therefore buffer the temperature of The Hamptons as it passes over them, however, by the time the wind passes over the colder Peconic Bay and reaches the North Fork, it has lost much of its warmth and hence does little to buffer the temperatures of the North Fork.

By the time spring arrives on Long Island, the ocean has cooled somewhat from the low winter temperatures. Breezes coming from the south at this time of year will therefore become cooled by the ocean, and as they pass over the warming land, a fog will often be produced. This fog will often become trapped on The Hamptons due to the many hills and rolling areas which exist there. Therefore, in the springtime, the North Fork will usually have more sunshine earlier and also have a higher average temperature. This is evident by the fact that the strawberries, sweet corn and potatoes grown on the North Fork begin to grow and ripen earlier than those same crops grown in The Hamptons.

During the summer months the southern breezes coming off the cool ocean will continue to keep average temperatures of The Hamptons lower. As the winds pass over The Hamptons, they travel over the Peconic Bay, which is a smaller body of water and hence warmer. The winds absorb much of the warmth from the bay and therefore cause the average temperatures on the North Fork to be higher than The Hamptons during the summer months. During the summer, the North Fork receives a greater number of thunder and lightning storms. These storms usually arrive from the west, and are pushed over towards the North Fork by the prevailing southeast winds.

During the fall, The Hamptons can also expect cooler temperatures than the North Fork, especially during the night. Otherwise, both forks have the benefit of enjoying a fall season consisting of a lot of sunshine and normal amounts of precipitation. The ocean effect, which alters the climates of both the North and South Fork is considerably reduced west of Riverhead, where the island widens. It is this reason along with the increased blending of soil series, which would keep either fork from being considered part of a larger Long Island appellation.

Although the amount of sunshine and rainfall can have an effect on the length of the growing season, the single most important factor is the number of days between the spring and fall frosts. In data taken from the Riverhead Station on the North Fork and from the Bridgehampton Station in The Hamptons (South Fork), there are definite differences in the frost dates for both forks. During the 6-year period from 1978–1983 the number of days between frosts, or the length of the growing season averaged 195 days on the North Fork and 182 days in The Hamptons. During those years there were anywhere from 1 to over 3 weeks less time for the growing season in The Hamptons as compared to the North Fork.

When this data is further examined, it is seen that this difference occurs mostly between the dates of the last spring frost. The average last frost in The Hamptons is usually around April 23rd, while that on the North Fork occurs around the beginning of April. This spring difference is much greater than the difference between the first fall frosts, which usually occur during the end of October to the beginning of November on both forks. This supports the fact that the growing season gets off to a slower start in The Hamptons.

The use of heat summation of "Growing Degree Days" is also another standard for determining climatic differences in grape-growing areas. Heat-summation is a standard developed by the University of California at Davis, and it is the measurement of the mean monthly temperatures of a single area, above 50° F. The average number of degree days for the North Fork (at Riverhead) and The Hamptons (at Bridgehampton) are as follows:

Riverhead (1941–1970)—2,932
Bridgehampton (1941–1970)—2,531

From the period of 1941 through 1970, the average number of heat summation days for the Riverhead Station placed them between the Regions II and III. During the same period, Bridgehampton was placed between the Region I and II.

The growing degree days for the periods 1973 to 1979 averaged 2,575 for Bridgehampton and 2,987 for Riverhead. During this time the area of the Riverhead Station on the North Fork varied between Regions II and III while the Bridgehampton area varied between Regions I and II.

As far as grape growing areas are concerned, this is a significant difference. In the years 1941–1979, the number of degree days in The Hamptons rarely came close to the number accumulated on the North Fork. This is another distinguishing climate feature which exists between the North Fork and The Hamptons.

The Atlantic Ocean is the main reason for The Hamptons and more so, the North Fork's buffered climate patterns. Heading west, as the two forks merge into the main body of Long Island, the effect of the Atlantic Ocean is greatly diminished. This is evident when data from Bridgehampton is compared with data from specific areas west of the proposed viticultural area. At the Brookhaven National Laboratory located in central Long Island and Patchoque located on the Great South Bay on the south shore, specific comparisons can be made. The Brookhaven National Laboratory located less than 15 miles west of The Hamptons can have as much as 50 days less of a growing season (growing season averages 150 days 1973–1982) than that recorded at Bridgehampton. Patchoque has as much as 36 days less (growing season averages 176 days 1973–1982)) with most seasons being around 1–2 weeks less than Bridgehampton.

The amount of heat summation or growing degree days accumulated in areas to the west of The Hamptons also differs considerably. During the period 1973–1979 the growing degree days averaged 2,403 at the Brookhaven National Laboratory while at Bridgehampton it averaged 2,575 degree days. Over that period the Brookhaven Lab averaged 172 degree days less than Bridgehampton. This significant difference in heat summation correlates with the shorter growing season found at Brookhaven.

The main reason why the climate differs west of The Hamptons is due to the lesser effect of the Atlantic Ocean

on buffering temperatures. As the buffering southwest winds approach western Long Island, they first must travel over a small sliver of land known as Long Beach, Jones Beach and Fire Island. The winds then must travel over the inlets of South Oyster Bay, Great South Bay and Moriches Bay, before traveling over the main body of Long Island. The combination of passing over the narrow, colder, island strips and bays causes a slight loss in the warmth of the winds, thereby lessening its effect in buffering the mainland. By the time the winds travel north, a few miles inward, they have lost a great deal of the warmth they had previously carried and hence do significantly less to control temperatures than the breezes traveling over The Hamptons. The Hamptons and the North Fork are much narrower strips of land than the main body of Long Island, and therefore alter the temperatures of the winds to a much lesser degree than western Long Island. The periods 1973–1981 show Patchogue averaging 4.1 degrees (F.) cooler than Bridgehampton for the same period.

The location of the Western boundary is based on the following evidence:

First and foremost, commercial agriculture, and farmland available for grape-growing are quite limited west of the Riverhead area. The "Pine Barrens" are unsuitable for planting. The remaining areas available for agriculture, to the north and south of the "Pine Barrens," may be suitable for grape growing, however the differences in both soil and climate distinguish this area significantly from The Hamptons. Apart from various soil types having different characteristics, the growing season in this area can be considerably shorter than that found in The Hamptons. The diminished ocean effect in this area, is very inconsistent, allowing for a greater occurrence of late spring and early fall frosts. The consistently shorter growing season, lower amount of heat summation and lower winter minimums, found west of the Town of Riverhead greatly increase the threat of winter injury to the grapes and could force the vintner in this area to carry out cultural practices similar to those used in the colder regions of upstate New York. The Hamptons define an area with unique climatic and geographic conditions, different from the rest of Long Island.

To summarize, it is important that the specific grape growing areas on Long Island be recognized and set apart from one another in order to maintain individuality and also to protect the consumer. The evidence presented in the petition and the notice of proposed rulemaking supports the fact that "The Hamptons, Long Island" region has within its boundaries distinct and unique grape growing conditions which make it a separate American viticultural area.

On the basis of the evidence provided by the petitioner, ATF finds "The Hamptons, Long Island" viticultural area to be a delimited grape-growing region distinguishable by geographical features.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because the proposal is not expected (1) to have significant secondary or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule, will not have a significant economic impact nor compliance burdens on a substantial number of small entities.

Compliance With Executive Order 12291

It has been determined that this final rule is not classified as a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is proposed.

Discussion of Comments

On August 18, 1984, Notice No. 538 was published in the **Federal Register** within a 45-day public comment period.

In that notice ATF invited comments from all interested parties regarding the proposal to establish "The Hamptons, Long Island" viticultural area.

No comments were received from the public during the comment period.

Having analyzed and evaluated all of the evidence provided by the petitioner, ATF has determined that this viticultural area should be adopted as proposed.

Miscellaneous

ATF does not wish to give the impression by approving "The Hamptons, Long Island" as a viticultural area that it is approving or endorsing the quality of the wine derived from this area. ATF is approving this area as being distinct and not better than other areas. By approving this area, wine producers are allowed to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of wines from "The Hamptons, Long Island."

List of Subjects in 27 CFR Part 9

Administrative practice and procedures, Viticultural areas, Consumer protection, Wine.

Drafting Information

The principal author of this document is Edward A. Reisman, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

PART 9—[AMENDED]

Authority and Issuance

27 CFR Part 9—American Viticultural Areas is amended as follows:

Paragraph 1. The authority citation for Part 9 continues to read as follows:

Authority: August 29, 1935, Chapter 814, sec. 5, 49 Stat. 981, as amended (27 U.S.C.), unless otherwise noted.

Paragraph 1A. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.101 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.101 The Hamptons, Long Island

Par. 2. Subpart C is amended by adding § 9.101 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.101 **The Hamptons, Long Island.**

(a) *Name.* The name of the viticultural area described in this section is "The Hamptons, Long Island."

(b) *Approved maps.* The appropriate maps for determining the boundaries of "The Hamptons, Long Island" viticultural area are 5 U.S.G.S. maps. They are entitled:

(1) "Riverhead, N.Y.," 7.5 minute series, scaled at 1:24,000, edition of 1956;

(2) "Eastport, N.Y.," 7.5 minute series, scaled at 1:24,000, edition of 1956;

(3) "New York, N.Y.; N.J.; Conn., U.S. 1:250,000 series, scaled at 1:250,000, edition of 1960, revised 1979;

(4) "Providence, R.I.; Mass.; Conn.; N.Y., U.S. 1:250,000 series, scaled at 1:250,000, edition of 1947, revised 1969, and

(5) "Hartford, Conn.; N.Y.; N.J.; Mass., U.S. 1:250,000 series, scaled at 1:250,000, edition of 1962, revised 1975.

(c) *Boundaries.* The boundaries of the viticultural area are as follows: "The Hamptons, Long Island" viticultural area is located entirely within Eastern Suffolk County, Long Island, New York. The viticultural area boundaries consist of all of the land areas of the South Fork of Long Island, New York, including all of the beaches, shorelines, islands and mainland areas in the Townships of Southampton and East Hampton (including Gardiners Island). The beginning point is found on the "Riverhead, N.Y." U.S.G.S. map on the Peconic River about 2 miles east of Calverton where the Townships of Riverhead, Brookhaven and Southampton meet:

(1) The boundary travels south approximately 10 miles along the Southampton/Brookhaven Township line until it reaches the dunes on the Atlantic Ocean near Cupsogue Beach on the "Eastport, N.Y." U.S.G.S. map.

(2) Then the boundary proceeds east and west along the beaches, shorelines, islands and mainland areas of the entire South Fork of Long Island described on the "New York," "Providence," and "Hartford" U.S.G.S. maps until it reaches the Peconic River near Calverton at the beginning point. These boundaries consist of all of the land found in the Townships of Southampton and East Hampton (including Gardiners Island).

Signed: April 9, 1985.

Stephen E. Higgins,

Director.

Approved: April 26, 1985.

Edward T. Stevenson,

Deputy Assistant Secretary (Operations).

[FR Doc. 85-11897 Filed 5-16-85; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Approval of Permanent Program Amendments From the State of Indiana Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior Department.

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of certain amendments to the Indiana regulatory program (hereinafter referred to as the Indiana program) under the provisions of the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

On May 29, 1984, Indiana submitted an amendment to its program which consisted of modifications to the Indiana regulations which would establish procedures to be followed in conducting administrative hearings pursuant to the Indiana Administrative Adjudication Act, IC 4-22-11.

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Director of OSM has determined that the amendments meet the requirements of SMCRA and the Federal regulations, with the exception of several provisions discussed below. Accordingly, the Director is approving those amendments which are consistent and has notified Indiana, pursuant to 30 CFR 732.17 of additional program amendments which are required. Pursuant to 30 CFR 732.17(f), Indiana must respond to this notification within 60 days.

The Federal rules at 30 CFR Part 914 which codify decisions concerning the Indiana program are being amended to implement these actions.

This final rule is being made effective immediately in order to expedite the State program amendment process and encourage States to conform their programs to the Federal standards without undue delay; consistency of the State and Federal standards is required by SMCRA.

EFFECTIVE DATE: May 16, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. McNabb, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204. Telephone: (317) 269-2600.

SUPPLEMENTARY INFORMATION:

I. Background

Information regarding the general background on the Indiana State Program, including the Secretary's Findings, the disposition of comments and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982 **Federal Register** (47 FR 32071-32106).

On May 29, 1984 (erroneously reported as May 31, 1984, in the proposed rule **Federal Register** notice) the Director, Indiana Department of Natural Resources, submitted to OSM pursuant to 30 CFR 732.17, a proposed State program amendment for approval. The proposed amendment establishes procedures for administrative hearings conducted pursuant to IC 4-22-1, the Indiana Administrative Adjudication Act. In various provisions of Indiana's approved program, reference is made to hearings conducted pursuant to IC 4-22-1.

OSM published a notice in the **Federal Register** on June 26, 1984, announcing receipt of the amendments, and procedures for the public comment period and for requesting a public hearing on the adequacy of the amendment (49 FR 26106). The public comment period ended July 26, 1984. Since no one requested a public hearing, the hearing, scheduled for July 23, 1984, was not held.

During its review of the proposed Indiana amendment, OSM identified several concerns. These were relayed to the State in a letter dated September 17, 1984. The State responded in letters dated October 25 and November 5, 1984, with explanation and modification of the identified provisions, to address OSM's concerns.

On November 23, 1984, OSM published a notice in the **Federal Register** reopening and extending the public comment period on the proposed amendment in light of the State's response (49 FR 46167). The comment period ended on December 10, 1984.

II. Director's Findings

A. General findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 that the amendments submitted by Indiana on May 29, 1984, as modified in Indiana's October 25 and November 5, 1984 letters to OSM, meet the requirements of SMCRA and the Federal regulations with the exception of several provisions discussed below. Only those provisions of particular interest or concern are discussed in the specific findings which follow. Unless specifically stated, the

Director approves the revisions to the Indiana program. Discussion of only those provisions for which specific findings are made does not imply any deficiency in any provision not discussed. The provisions not specifically discussed are found to be no less stringent than the Act and no less effective than the Federal rules. All of the amended provisions are cited at the end of this notice in the amendatory language for section 914.15 and section 914.16. Indiana has also made non-substantive changes which the Director finds consistent with Federal requirements.

The amendment submitted by Indiana establishes procedures to be followed in conducting administrative hearings pursuant to the Indiana Administrative Adjudication Act, IC 4–22–1.

B. Specific findings

Rules added at 310 IAC 0.5 govern administrative procedures before the Department of Natural Resources. Rules at 310 IAC 0.5–1 establish procedures for conduct by a hearing officer or hearings under the Administrative Adjudication Act.

Indiana has added definitions at Section 1, to define "administrative adjudication," "commission," "department," "hearing officer," and "party" to apply to 310 IAC 0.5–1.

Although the Federal rules do not contain direct counterparts to these definitions, the definitions do not conflict with requirements at 43 CFR Chapter 4 and serve to clarify use of these terms in the Indiana rules. Therefore, the Director finds these definitions to be consistent with Federal requirements.

Section 2 is added to provide that "310 IAC 0.5–1 shall control proceedings in which the ultimate authority appoints a hearing officer in accordance with IC 4–22–1." This section merely establishes where the provisions of 310 IAC 0.5–1 apply and is consistent with Federal requirements at 43 CFR Part 4. The Indiana rules at 310 IAC 0.5–1 Section 3 contain the general requirements for initiating administrative adjudication, for initiating revocation or suspension of permits, and for notification of a hearing officer's address upon appointment of the office. This section contains general requirements which the Director finds consistent with the requirements in 43 CFR Part 4.

Section 4 pertains to the filing and service of documents. It establishes with whom documents shall be filed and upon whom served, and how service shall be made. The Director finds this section consistent with the requirements for filing and service of documents found in 43 CFR Part 4.

Section 5 relates to time periods under 310 IAC 0.5–1, and explains how time periods are computed and when time periods may be enlarged by the hearing office. The Director finds this section consistent with the requirements of 43 CFR Part 4.

Section 6 provides that a party may be represented by an attorney. Section 7 establishes requirements of the contents of a claim. The Director finds these provisions consistent with requirements in 43 CFR Part 4 for representation and filing of a claim.

Section 8 covers response to claims and provides that averments in a claim are automatically deemed by the responding party. A responding party wishing to "assert affirmative defense" or counter claims shall do so in writing 15 days before the hearing. Paragraph (b) provides that a permittee who wishes to contest a permit revocation must file a response within 30 days of receipt of a show cause order. The paragraph also lists what items the response must contain, including an indication of whether a hearing is desired. The Director finds the provisions consistent with 43 CFR Part 4.

Rule 310 IAC 0.5–1 Section 9 establishes provisions for amendment to pleadings and timeframes within which claims may be amended and responses filed. In a letter to the State dated September 17, 1984, OSM pointed out that 310 IAC 0.5–1–9(c) implies that a response to an amended claim is necessary in the provision which states that "a response to an amended claim shall be filed" within a stated period of time. The provisions in Section 8 imply that no response is necessary unless a counter claim is desired. OSM pointed out that these provisions appear contradictory. The State responded in its October 25, 1984 letter that "our interpretation of rule 9(c) is that the 'shall' relates to the fifteen day timeframe for submitting an answer, not to whether or not an answer must be filed." The State said it is willing to revise the rule to read as follows: "The provisions of 310 IAC 0.5–1–8(a) control the filing of a response to an amended claim." This amended language would satify OSM's concern, but is not a required change since Indiana's interpretation of the rule as it stands clarifies the requirement.

Section 10 of 310 IAC 0.5–1 concerns pre-hearing conferences and states that the hearing officer may schedule a pre-hearing conference at the request of a party, and shall give at least 5 days notice of the conference. The Director finds this section consistent with the Federal requirements in 43 CFR Part 4.

Section 11, Summary decision, provides that "a party may move for summary decision of all or part of the case" and establishes what actions the hearing officer or ultimate authority may take following such motion. Paragraph (c) of the section provides that nothing in the section obviates the need for the department to make an informal finding encompassing relevant facts. The Director finds this section to be consistent with Federal requirements in 43 CFR Part 4.

Section 12, Dismissal, provides that the hearing officer shall submit an administrative action which the hearing officer determines should be dismissed, as a recommended order of dismissal for final disposition by the ultimate authority. Section 13, Discovery, entitles a party to use the discovery provisions of rules 26 through 37 of the Indiana Rules of Trial Procedure, and establishes relevant provisions. The Director finds these sections consistent with the requirements in 43 CFR Part 4.

Section 14, paragraph (a) of 310 IAC 0.5–1 allows a person to intervene in an action where the person will be affected by the determination of the department or where the right to intervene is otherwise conferred by law (IC 4–22–1, Indiana Administrative Adjudication Act). Paragraph (b) of the section establishes procedures for a person desiring to intervene. In its September 17, 1984 letter to the State, OSM identified a concern with the language of paragraph (a). OSM pointed out that under this provision, the hearing officer is to permit intervention where the person *will be* affected under the Administrative Adjudication Act or where the right to intervene is conferred by law. Under the Federal rules at 43 CFR Part 4.1110, the administrative law judge and the appeals board must grant intervention to a person who had a statutory right to initiate intervention proceedings or who has an interest that is or *may be* affected by the outcome of the proceeding. The Federal rule also states that if the person does not fall into either of these categories, the administrative law judge or the Board is required to consider other specified factors to determine whether intervention is appropriate. OSM pointed out in its letter that the Indiana rule is therefore more exclusionary than the Federal rule and should be amended. OSM also indicated that the State provision only pertains to the hearing officer granting intervention and needs to provide for intervention in a review proceeding before the ultimate authority.

The State responded to these concerns in letters dated October 25, and November 5, 1984. The State said that it does not have statutory authority to use language other than the "will be affected" language, because IC 4–22–1–25 provides that an affected person, for purposes of IC 4–22–1, is one who will be affected. However, the State contends that the rule allows intervention the same as the Federal rule. The State said that the Indiana law and SMCRA confer "broad standing, such that persons who may be affected are allowed to intervene based on a statutory right of intervention." The State said that this statutory right is established in the second part of 310 IAC 0.5–1–14(a) which grants intervention "where the right to intervene is otherwise conferred by law." The State said that this makes it obvious that persons who may be affected under the surface mining law will be allowed to intervene.

Indiana continued that, even if this were not true, the Indiana Court of Appeals, in *Environmental Management Board* v. *Town of Breman*, 458 NE2nd 672, interpreted IC 4–22–1 such that an affected person is any person who may be affected.

The State's third argument is that under IC 13–6–1–1 *et seq.*, any citizen of the State may maintain an action to protect the environment from significant pollution, impairment or destruction. The State maintains that this statute, coupled with its other arguments, makes its regulations no less effective than the Federal requirements.

The Director finds Indiana's explanations inadequate to allow approval of the "will be affected" language. The State's argument that the Indiana Surface Mining law confers broad standing such that persons who may be affected are allowed to intervene based on statutory right of intervention, is not supported by the provisions of the Indiana Surface Mining law. The law is silent as to the right of intervention. Since no statutory provisions were cited by the State supporting its conclusion that its law confers broad standing and intervention rights, the argument must be rejected.

The State's second argument concerning the "Town of Breman" court decision is also rejected. The court in this decision found only that "any aggrieved person" may obtain judicial review of a decision by the Indiana Environmental Management Board. The appellate court merely affirmed the trial court's finding that plaintiffs were "aggrieved" and thus had standing to pursue an action for judicial review. The court, however, did not find that IC4–22–1 includes "any person who may be affected."

Indiana's third argument is that under IC 13–6–1–1 *et seq.*, any citizen of the State may maintain an action to protect the environment from significant pollution, impairment or destruction. This law is more restrictive than the Federal provisions. It applies only to citizens of the State and addresses only situations requiring protection of the environment from "significant pollution, impairment or destruction."

Accordingly, the Director finds 310 IAC 0.5–1–14(a) less effective than the requirements of 43 CFR 4.1110 and requires an amendment to the paragraph to provide for intervention for any person whose interest is or may be adversely affected.

In response to OSM's concern that the rule should apply to an ultimate authority review proceeding as well as to the hearing officer granting prevention, Indiana submitted policy statements which provide that the hearing officer and the ultimate authority will follow 310 IAC 0.5–1–14 in the event they conduct a hearing under IC 13–4.1.

The Director finds that the policy statement submitted by the State dated October 16, 1984, satisifies OSM's concern that 310 IAC 0.5–1–14(a) only pertained to the hearing officer granting intervention, by also providing for intervention in a review proceeding before the ultimate authority.

Section 15 of 310 IAC 0.5–1 concerns trial rules and provides that the hearing officer may apply a provision of the Indiana Rules of Trial Procedure if consented by the parties and if not inconsistent with IC–4–22–1 or 310 IAC 0.5–1. The Director finds this section to be consistent with the requirements of 43 CFR Part 4.

Section 16 covers requirements for award of expenses and attorney fees. It establishes factors to consider when determining whether to make an award and what is a reasonable amount, and establishes timeframes for petitions for and challenges of awards.

OSM in the September 17 letter, pointed out several concerns to the State relating to this section. The State responded to these concerns in its October 25 letter. OSM's first concern as that 310 IAC 0.5–1–16 does not authorize the filing of a petition seeking award of costs as does 43 CFR 4.1290 and does not contain standards for substantiating the amount sought as in 43 CFR 4.1292. Indiana responded that the provisions for filing a petition are at 310 IAC 0.5–1–16(c) and that this rule with IC 13–4.1–11–9 contain all of the provisions of 43 CFR 4.1290. The State said that, although the rules do not specify the type of documentation required to substantiate the amount sought, the petitioner will have the burden of proof. The State also said that 310 IAC 0.5–1–16(b) provides that in determining the amount of attorney fees, the time involved and customary fees for the services are considered.

OSM agrees with this reasoning. The failure to provide specific requirements for substantiating the claim (as in 43 CFR 4.1292) does not render the rule less effective than the Federal rule.

OSM also noted that 310 0.5–1–16 was silent with respect to award against the permittee or the State. OSM asked for assurance that awards may be made against these parties, at least to the extent allowed in 43 CFR 4.1294. In response, the Director, Indiana Department of Natural Resources (IDNR), provided assurance that the rule would allow awards to be made against the permittee or the State to the extent allowed in the Federal rules. The Director, IDNR, stated that "there was no attempt to place such a restriction in the rule, and there is no language in the rule which would allow such a restriction."

OSM remains concerned about awards against the State since there is no indication in the IDNR Director's response of his authority to waive the State's governmental immunity against such awards. The Director, therefore, is requiring that Indiana either submit an Attorney General's opinion concluding that the Director's waiver of the State's immunity is legal and binding upon the State, or amend the provision to provide for awards against the State.

The third concern noted in OSM's letter was that 310 IAC 0.5–1–16(a) states that, in determining whether to make an award, consideration may be given to whether the result would not have been obtained without participation of the person seeking the award. OSM contends that this is less effective than the Federal rule (43 CFR 4.1294) which allows an award if the person made a substantial contribution to the full and fair determination of the issues.

The State responded that, "without this section, the only basis [for award of fees] would have been that the State or the coal company was acting to harass or embarrass the public participant."

OSM is not objecting to the entire paragraph which contains the restrictive phrase, but only to the restrictive phrase itself. Without the phrase the paragraph would read: "In determining whether to make an award for costs and expenses . . . the following factors may be

considered. . . . (2) whether a person seeking the award other than a permittee or the department made a substantial contribution to a full and fair determination of the issues." The provision would then be no less effective than the Federal provision. Therefore, the Director is requiring Indiana to amend its provision accordingly.

Finally, OSM required clarification as to whether a party who prevails only in part would be eligible for an award. The rule at 310 IAC 0.5–1–16(a) states that "no award shall be made except to a prevailing party in the administrative action." A rule which would restrict awards only to a party who prevails on all issues in the administrative action, would be inconsistent with the Federal rule.

The State responded that "the rule will not be interpreted to require that a party prevail on all issues in the case. If a permittee were to successfully have vacated one part of a two-part notice of violation, on the basis that the division issued it for the purpose of harassing the permittee, the permittee could seek its costs and expenses on that portion of the case, even if the division were to successfully defend the second violation."

The Director finds that this response is satisfactory and that it renders this portion of the rule no less effective than the Federal requirement.

III. Public Comments

There were no public comments on this proposed rulemaking.

IV. Director's Decision

The Director, based on the above findings, is approving the Indiana regulatory Amendments as submitted on May 29, 1984, including the modifications submitted on October 25 and November 5, 1984, under the provisions of 30 CFR 732.17. As indicated in the findings above, there are a number of provisions which are inconsistent with SMCRA and the Federal regulations. The Director has notified Indiana, pursuant to 30 CFR 732.17, that certain program amendments are required. The State must reply within 60 days after notification by submitting either the text of the proposed amendment or a description of the amendment to be proposed and a timetable for enactment which is consistent with established administrative procedures in the State.

The Federal rules at 30 CFR Part 914 are being amended to implement this decision.

V. Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 914

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 914 is amended as set forth herein.

Dated: April 25, 1985.

J. Steven Griles,

Deputy Assistant Secretary—Land and Minerals Management.

The authority citation for 30 CFR Part 914 continues to read as follows:

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

PART 914—INDIANA

1. 30 CFR 914.15 is amended by adding a new paragraph (h) as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(h) The following amendments are approved effective May 16, 1985, provided they are adopted by the State in the identical form as submitted to and approved by the Office of Surface Mining.

Revisions submitted May 29, 1984, as modified in letters dated October 25, 1984 and November 5, 1984, amending Indiana regulations by adding 310 IAC 0.5 and a policy statement signed on October 16, 1984, and submitted October 25, 1984, with the exception of those provisions identified in section 914.15(c) which require further amendment.

2. 30 CFR 914.16 is amended by adding a new paragraph (c) to read as follows:

§ 914.16 Required Program Amendments.

* * * * *

(c) By July 15, 1985 Indiana shall submit for OSM approval:

(1) An amendment to 310 IAC 0.5–1.14(a) to allow intervention by a person who has an interest which is or may be adversely affected by the outcome of the proceeding.

(2) An opinion from the Indiana Attorney General concluding that the waiver from the Director, IDNR, of the State's immunity from award of fees, is legal and binding on the State; or, an amendment to 310 IAC 0.5–1–16 to provide that an award may be made against the State.

(3) An amendment to 310 IAC 0.5–1–16(a) to delete the phrase which allows consideration of whether the result would not have been obtained without participation of the person seeking the award, in determining whether to make an award for costs and expenses.

[FR Doc. 85–11888 Filed 5–15–85; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 5–85–01]

Special Local Regulations; Norfolk Harborfest

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are adopted for Harborfest 1985. This event will be held on the Elizabeth River, between the Norfolk and Portsmouth downtown areas. These regulations are needed to provide for the safety of life on the navigable waters during the event.

EFFECTIVE DATES: These regulations become effective and terminate as follows.

a. 9:30 am until 10:30 pm, 7 June 1985
b. 8:00 am until 11:00 pm, 8 June 1985
c. 9:00 am until 6:30 pm, 9 June 1985

FOR FURTHER INFORMATION CONTACT: Billy J. Stephenson, Chief, Boating

Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23705 (804–398–6204).

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rule making procedures would have been impracticable. The application to hold the event was not received until 26 April 1985, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this notice are Billy J. Stephenson, project officer, Chief, Boating Affairs Branch, Fifth Coast Guard District, and Lieutenant Commander Walter J. Brudzinski, project attorney, Fifth Coast Guard District Legal Office.

Discussion of Regulations

The three-day Harborfest 1985 will consist of numerous water events, including parade of vessels, Coast Guard air-sea rescue demonstration, air shows, jet ski demonstrations, various types of raft and boat races, military vessel and helicopter demonstrations, a pirate ship mock battle, and fireworks. Closure of the waterway for any extended period of time is not anticipated. Thus, commercial traffic should not be severely disrupted at any given time.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A new section is added to read as follows:

§ 100.35–501. Elizabeth River, Norfolk, Virginia.

(a) *Regulated Area:* The waters of the Elizabeth River and its branches from shore to shore, bounded by the Midtown tunnel on the north, the Downtown tunnel on the south, and the Berkley Bridge on the east.

(b) *Special Local Regulations:* Except for participants in the Norfolk Harborfest, or persons or vessels authorized by the Coast Guard Patrol Officer, no person or vessel may enter or remain in the above area. The operator of any vessel in the immediate vicinity of this area shall:

(1) Stop his vessel immediately upon being directed to do so by any Coast Guard officer or petty officer on board a vessel displaying a Coast Guard ensign, and

(2) Proceed as directed by any Coast Guard officer or petty officer.

(c) Any spectator vessel may anchor outside of the area specified in paragraph (a) of these regulations;

(d) The Coast Guard Patrol Commander is a commissioned officer of the Coast Guard who has been designated by the Commander, Fifth Coast Guard District. The Patrol Commander will be stationed at the reviewing platform at Town Point; and

(e) The Coast Guard Patrol Commander has been authorized to stop the event to allow the transit of backed up marine traffic through the regulated area.

(f) These regulations and other applicable laws and regulations will be enforced by Coast Guard officers and petty officers on board Coast Guard and private vessels displaying the Coast Guard ensign.

Dated: May 3, 1985.

James C. Irwin,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 85–11870 Filed 5–15–85; 8:45 am]

BILLING CODE 4910–14–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1805, 1810, 1815, 1817, and 1852

Interim Changes to the NASA FAR Supplement on Unpriced Options

AGENCY: Office of Procurement, Procurement Policy Division, NASA.

ACTION: Interim rule and request for comment.

SUMMARY: This notice establishes interim amendments to the NASA Federal Acquisition Regulation Supplement, Chapter 18 of the Federal Acquisition Regulations System (see 49 FR 6388) and invites written comments on these interim amendments. The rule revises and strengthens agency criteria for and use of upriced options. In particular, these changes clarify that options must be synopsized; provide conditions to be met before unpriced options may be considered in the selection process and before pricing and excercising unpriced options; provide a solicitation provision to notify offerors that the unpriced option will be considered in the source selection, and provide a contract clause containing the conditions of the unpriced option.

EFFECTIVE DATE: April 1, 1985.

DATE: Comments are due not later than June 17, 1985.

ADDRESS: Comments should be addressed to NASA, Office of Procurement, Procurement Policy Division, (Code HP), Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: W.A. Greene, Procurement Policy Division, (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: (202) 453–2119.

SUPPLEMENTARY INFORMATION:

Background

NASA has issued interim changes to the NASA FAR Supplement to assure that all acquisition regulations regarding unpriced options are compatible and consistent with existing regulations. Due to urgent and compelling circumstances, these changes are being issued as interim rules without public comment prior to their effectivity.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. NASA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This rule provides uniformity with other Federal agencies and reduces the administrative impact on bidders as set forth in OFPP Policy Letter 83–2.

List of Subjects in 48 CFR Ch. 18

Government procurement.

Dated: April 1, 1985.

S.J. Evans,

Assistant Administrator for Procurement.

1. The authority citation for 48 CFR Ch. 18 reads as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1805—SYNOPSES OF PROPOSED CONTRACTS

2. The introductory text of section 1805.207 is redesignated 1805.207(a) and section 1805.207(b) is added.

1805.207 Preparation and transmittal of synopses.

* * * * *

(b) All options (including unpriced options) must be included in the description required by FAR 5.207(b)(4)(viii); or there must be a separate synopsis of the option as a new procurement prior to its exercise. See FAR 17.207(c)(4).

PART 1810—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

1810.004 [Corrected]

3. In FR Doc. 85-7082, appearing at page 11872 in the issue of March 26, 1985, the amendatory language to section 1810.004-71 is corrected by changing the reference in the second line from "1810.011" to "1810.001" and by changing the reference in the third line from "1810.001" to "1810.011."

PART 1815—CONTRACTING BY NEGOTIATION

4. In FR Doc. 85-7082, appearing at page 11872 in the issue of March 26, 1985, in the third column amendatory paragraph 20 is corrected by changing the reference to the removal of 1815.104 in the heading and the first line from "1815.104" to "1815.105."

5. Section 1815.613 is amended by revising section 1815.613-71(b)(1) to read as follows:

1815.613-71 Evaluation and negotiation of procurements conducted in accordance with the Source Evaluation Board Manual (NHB-5103.6).

* * * * *

(b) *Evaluation and selection procedures.*—(1) *Reponsibility of source selection official.* In the final analysis, NASA judgment on the totality of the evaluation will be that of the Source Selection Official. This includes assessment of the procedures followed by the Board, the validity of its substantive evaluations, the relative significance of the several areas of evaluation, and the weightings previously assigned by the SEB, in the light of all the information produced by the source evaluation and selection process. In addition, when the RFP contained in the provision at 18-52.217-71, Evaluation of Unpriced Option, the Source Selection Official must, if he intends to have an unpriced option exercised under 18-17.207-71, consider the unpriced option, the proposal's budget estimate for this option, and the Government's most probable cost assessment of this budget estimate.

* * * * *

PART 1817—OPTIONS

6. Section 1817.206-70 is added to read as follows:

1817.206-70 Unpriced options.

This section does not apply to options contained in solicitations issued prior to 1 April 1985, and contracts resulting therefrom. This section applies only to options wherein price or estimated cost and fee are the only undefined elements. If there are other elements of the option that are not fully defined; e.g., quantities or statement of work, the option must be approved by NASA Headquarters, Code HS, prior to synopsis of the solicitation for the basic contract.

(a) The contracting officer may consider an option in the evaluation of a contract proposal (see 1817.208) if—

(1) The documentation specified in FAR 17.205 was provided before issuance of the solicitation;

(2) The option was synopsized (see FAR 17.207(c)(4));

(3) The solicitation specifically provided for how the option would be evaluated (see FAR 15.406-5(c)) and the solicitation included the provision at 1852.217-71, Evaluation of Unpriced Option; and

(4) The solicitation included the clause at 1852.217-72, Unpriced Option.

(b) An option shall not be evaluated if paragraph (a) above is not complied with. Unevaluated options shall not be exercised unless FAR 6.3 is complied with.

7. Section 1817.207-71 is added to read as follows:

1817.207-71 Exercise and pricing of unpriced options.

In exercising an unpriced option that was evaluated in accordance with 1817.206-70, the contracting officer shall provide a preliminary written notice of intent to extend the term of the contract at least 90 (preferably 120) days before the option expires. The notice shall state that the Government anticipates exercise of the option but is not bound to do so, and shall request a cost proposal if a current proposal is not already on hand. Thereafter, the contracting officer shall attempt to negotiate a reasonable price or estimated cost and fee for the option. If agreement is reached, a contract modification shall be issued exercising the option and specifying the price or estimated cost and fee. If agreement cannot be reached before the option must be exercised, the contracting officer shall determine a reasonable price or estimated cost and fee for the option. A unilateral contract modification exercising the option shall be issued and shall set forth the price or estimated cost and fee determined by the contracting officer, state that this determination consititutes a final decision for purposes of the Contract Disputes Act of 1978, and otherwise comply with the requirements of FAR 33.211.

8. Section 1817.208 and 1817.208-70 are added to read as follows:

1817.208 Solicitation provisions and contract clauses.

The provisions and clauses prescribed in FAR 17.208 apply only to priced options. They shall not be included in solicitations or contracts containing unpriced options unless the solicitations or contracts also contain priced options.

1817.208-70 Provisions and clauses for unpriced options.

(a) The contracting officer shall insert the provision at 1852.217-71, Evaluation of Unpriced Option, in solicitations if—

(1) The solicitation contains an unpriced option clause;

(2) The option is not to be exercised at the time of contract award; and

(3) The cost of the option is to be negotiated after the award of the contract.

(b) The contracting officer shall insert the clause at 1852.217-72, Unpriced Option, in contracts if the provision in paragraph (a) above is used, and all terms and conditions in the basic contract, except price or estimated cost and fee, are to apply to the option.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

9. Section 1852.217 is amended by adding sections 1852.217-71 and 1852.217-72 to read as follows:

1852.217-71 Evaluation of Unpriced Option.

As prescribed in 1817.208-70(a), insert the following provision.

Evaluation of Unpriced Option (Apr 1985)

The Government will evaluate unpriced option(s) for award purposes as one of the Other Factors and separate from the evaluation of the Cost Factors. The offeror shall submit with its proposal a budget estimate for the unpriced option which shall be presented to, and considered by, the Selection Official, along with the Government's most probable cost assessment of this budget estimate.

Evaluation of the option does not obligate the Government to exercise the option, nor does the exercise of the option obligate the Government to accept the budget estimate as a reasonable cost for the option.

(End of provision)

1852.217-72 Upriced Option.

As prescribed in 1817.208-70(b), insert the following clause:

Unpriced Option (Apr 1985)

(a) This clause applies only to optional quantities of supplies or services for which specific prices have not been negotiated at the time of award of the basic contract. Any other option clauses contained in this contract do not apply to such unpriced options.

(b) The Government may extend the term of the contract for the quantities of supplies or services and period specified in the Schedule by written modification of this contract before the current contract performance period expires; provided that the Government shall give the Contractor a preliminary written notice of intent to extend at least 90 days before the option expires. The preliminary notice does not commit the Government to exercise the option.

(c) Except for the price or estimated cost and fee, all other terms and conditions in the contract apply to the option. Upon receipt of the preliminary notice, the parties shall negotiate a reasonable price or estimated cost and fee for the option. The modification exercising the option shall specify the price or estimated cost and fee, if agreed upon. If the price or estimated cost and fee for the option are not agreed upon at the time the Government exercises the option, the Contractor is nevertheless bound to continue performance in accordance with all other terms and conditions, and the parties further agree, in such an event, that a reasonable price or estimated cost and fee for the option shall be determined by the Contracting Officer and shall be set forth in the modification exercising the option. This determination of a reasonable price or estimated cost and fee shall constitute a final decision by the Contracting Officer on a question of fact within the meaning of the Disputes clause in this contract and the Contract Disputes Act of 1978.

(d) If the Government exercises this option, the extended contract shall be considered to include this option. However, the total duration of this contract, including the exercise of any option(s), shall not exceed [1] ——years

(End of clause)

[FR Doc. 85-11773 Filed 5-15-85; 8:45 am]

BILLING CODE 7510-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub-7)]

Railroad Exemption—Export Coal

AGENCY: Interstate Commerce Commission.

ACTION: Notice of removal of final rule.

SUMMARY: To comply with a court decision, the Commission removes a regulation that exempted from regulation the transportation by railroads of export coal.

DATES: The Commission's decision is effective on May 13, 1985.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's joint decision in Ex Parte No. 346 (Sub-No. 7), *Railroad Exemption—Export Coal*, and Ex Parte No. 346 (Sub-No. 8), *Exemption From Regulation—Boxcar Traffic*. The Commission has found that notice and public procedures are impractical and that this action should be made effective on less than 30 days' notice. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, c/o Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

List of Subjects in 49 CFR Part 1039

Railroads.

1. The authority citation for Part 1039 continues to read:

Authority: 49 U.S.C. 10321(a) and 10505, and 5 U.S.C. 553.)

§ 1039.15 [Removed]

2. In 49 CFR Part 1039, § 1039.15 is removed.

Decided: May 9, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley, and Strenio. Vice Chairman Gradison commented with a separate expression.

James H. Bayne,

Secretary.

[FR Doc. 85-11812 Filed 5-15-85; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1039

[Ex Parte No. 346 (Sub-8)]

Exemption From Regulation—Boxcar Traffic

AGENCY: Interstate Commerce Commission.

ACTION: Notice of modification of final rule.

SUMMARY: To comply with a court decision the Commission modifies its regulation exempting boxcar traffic from regulation. The modifications exclude joint rates from the exemption and remove provisions authorizing mileage charges for return of empty cars and reclaims of car hire on stored empty cars.

DATE: The Commission's decision is effective on May 13, 1985.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's joint decision in Ex Parte No. 346 (Sub-No. 7), *Railroad Exemption—Export Coal*, and Ex Parte No. 346 (Sub-No. 8), *Exemption From Regulation—Boxcar Traffic*. The Commission has found that notice and public procedures are impractical and that this action should be made effective on less than 30 days' notice. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, c/o Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

List of Subjects in 49 CFR Part 1039

Agricultural commodities, Railroads.

Authority: 49 U.S.C. 10321(a) and 10505, and 5 U.S.C. 553.

Decided: May 9, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley, and Strenio. Commissioner Simmons, joined by Commissioner Lamboley, dissented in part with a separate expression. Chairman Taylor commented with a separate expression.

James H. Bayne,

Secretary.

Appendix

PART 1039—[AMENDED]

1. The authority for 49 CFR Part 1039 continues to read as follows:

Authority: 49 U.S.C. 10321(a) and 10505, and 5 U.S.C. 553.

2. In § 1039.14(b), a new paragraph (b)(7) is added to read as follows:

§ 1039.14 [Amended]

* * * * *

(b) * * *

(7) Joint Rates.

* * * * *

3. In § 1039.14 paragraph (c), is revised to read as follows:

§ 1039.14 [Amended]

* * * * *

(c) Rail carriers are authorized to negotiate bilateral agreements governing

[1] See FAR 17.204(e).

boxcar car hire rates, empty movements, and storage.

* * * * *

[FR Doc. 85-11811 Filed 5-15-85; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 31012-199]

Atlantic Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NOAA issues this notice to close the fishery for Atlantic bluefin tuna conducted by vessels permitted in the incidental longline category in the area south of 36°00′ N. latitude. Closure of this fishery is necessary because the annual catch quota of 115 short tons (st) for this area will be attained by the effective date. The intent of this action is to prevent exceeding the annual quota established for this segment of the fishery and thereby maintain the United States' obligations under the International Commission for the Conservation of Atlantic Tunas.

EFFECTIVE DATES: 0001 hours local time, May 14, 1985, through December 31, 1985.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617-281-3600, ext. 325, or David S. Crestin, 617-281-3600, ext. 253.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971-971h) regulating the take of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the Federal register on June 17, 1983 (48 FR 27755).

Section 285.22(f)(1) of the regulations provides for an annual quota of 145 short tons (st) of Atlantic bluefin tuna to be taken by vessels permitted in the incidental longline category in the regulatory area. Of this amount, no more than 115 st may be taken in the area south of 36°00′ N. latitude. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is required under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator, further, is required under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the type of vessels subject to the quotas. The Assistant Administrator has determined, based on the reported catch of Atlantic bluefin tuna of 100 st, and the recent catch rate, that the annual quota of Atlantic bluefin tuna allocated to vessels permitted in the incidental longline category fishing south of 36°00′ N. latitude will be attained by the effective date. Fishing for and retention of any Atlantic bluefin tuna by these vessels in this area must cease at 0001 hours, local time, on May 14, 1985.

Vessels permitted in the incidental longline category fishing north of 36°00′ N. latitude may continue to fish for and retain Atlantic bluefin tuna until the total annual quota of 145 st is achieved.

Notice of this action has been mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid permit for this fishery.

Other Matters

This action is taken under the authority of 50 CFR 285.20, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

(16 U.S.C. 971 *et seq.*)

Dated: May 13, 1985.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 85-11904 Filed 5-13-85; 8:45 am]
BILLING CODE 3510-22-M

50 CFR Part 663

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Issuance of experimental fishing permits.

SUMMARY: This notice announces the issuance of two experimental fishing permits to U.S. fishermen for the harvest of shortbelly rockfish on domestic vessels using modified pelagic trawl gear in the fishery conservation zone (FCZ) off the coasts of Oregon and California. These permits allow experimental fishing which otherwise would be prohibited by Federal regulations. This action is authorized by the Pacific Coast Groundfish Fishery Management Plan and implementing regulations.

EFFECTIVE DATES: April 20, 1985, through April 19, 1986.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206-526-6150, or Rodney R. McInnis, 213-548-2518.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) and implementing regulations at 50 CFR Part 663 specify that experimental fishing permits (EFPs) may be issued to authorize fishing that would otherwise be prohibited by the FMP and regulations. The procedures for issuing EFPs are contained in the regulations at § 663.10.

Two applications for EFPs to harvest shortbelly rockfish, *Sebastes jordani*, on an experimental basis in the FCZ, one off California and the other off Oregon, have been received and processed by NMFS. The California application was received by the Director, Southwest Region, NMFS, on February 27, 1985, and the Oregon application was received by the Director, Northwest Region, NMFS, on March 7, 1985. Both applicants requested EFPs to authorize the use of modified pelagic trawl gear which has a small-mesh liner in the codend of the net. Current groundfish regulations at § 663.26 prohibit the use of a mesh size smaller than three inches and prohibit the use of double-walled codends in pelagic trawls in the FCZ. Notices acknowledging receipt of these applications, describing the proposals, and requesting public comment were published in the **Federal Register** on March 15, 1985 (50 FR 10525), and on April 4, 1985 (50 FR 13408). No comments were received on either application. Each application was considered by the Pacific Fishery Management Council; one at the March 13, 1985, public meeting and the other at the April 10, 1985, public meeting. The Council recommended that both EFPs be issued. Therefore, NMFS has issued the EFPs under the provisions of § 663.10.

The applicant requesting an EFP for shortbelly rockfish off California (50 FR 10525) also had requested use of the modified pelagic trawl gear to target on Pacific whiting, *Merluccius productus*, and squid, *Loligo opalescens*. The applicant's additional request to target on Pacific whiting using the one-and-one-quarter-inch mesh liner in the codend of the net was denied because of the potential harvests of small Pacific whiting using this modified gear. Since substantial harvests of Pacific whiting can be achieved using the three-inch mesh gear authorized in § 663.26, the EFP does not permit the use of the one-and-one-quarter-inch mesh liner to

target on this species. Squid, which may be harvested under State of California rules, are not managed under the FMP and, therefore, no restrictions on harvesting this species are included in the EFP.

The EFP off California is in effect from April 20, 1985, through April 19, 1986. Under its terms and conditions the permittee may take up to 1,000 metric tons (mt) of shortbelly rockfish and, in addition, no more than 50 mt of Pacific whiting and other groundfish as an incidental catch. Mesh size and double-walled codend provisions at § 663.26(b) (2) and (4)(i) are waived for fishing under the EFP except that liners for pelagic trawls must not have a mesh size less than one and one-quarter inches. Prohibited species and catch limitation provisions of 50 CFR Part 663 will apply under the EFP. Fishing authorized by the EFP is limited to the FCZ off California between 35°40′ N. latitude and 38°00′ N. latitude. The applicant is required to maintain logs and submit data on catches made under the EFP to NMFS and must accommodate an observer as requested by NMFS.

The EFP in the FCZ off Oregon is in effect from April 20, 1985, through April 19, 1986. Under its terms and conditions the mesh size and double-walled codend provisions at § 663.26(b) (2) and (4)(i) are waived so that the permittee can experimentally target on shortbelly rockfish using a one-and-one-half-inch mesh liner in the codend of the net. The permittee may take groundfish species other than shortbelly rockfish with this experimental gear, but such take must not exceed 20 percent of the total landings per trip. Prohibited species and catch limitation provisions of 50 CFR Part 663 will apply. The permittee is required to maintain and submit detailed logs on the operation and must accommodate an observer as requested by NMFS.

(16 U.S.C. 1801 *et seq.*)

Dated: May 13, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85-11858 Filed 5-15-85; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 50, No. 95
Thursday, May 16, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 536

Grade and Pay Retention

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management is proposing a change in the regulations on pay retention to clarify that pay retention does not apply when there is a statutory reduction in scheduled rates of pay under the General Schedule or a prevailing rate schedule, including a reduction authorized by a Presidential alternative pay plan.

DATE: Comments must be received on or before July 15, 1985.

ADDRESS: Send written comments to Jean M. Barber, Assistant Director for Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Washington, D.C. 20044, or deliver to OPM, Room 4351, 1900 E Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Jan B. Karicher, (202) 254–7052.

SUPPLEMENTARY INFORMATION: Paragraphs (a) (1) and (2) of section 5363 of title 5, United States Code, provide pay retention for employees who cease to be entitled to grade retention as a result of the expiration of the 2-year period of entitlement to grade retention or whose rates of basic pay are reduced as the result of a reduction or termination of a special rate of pay established under 5 U.S.C. 5303. Paragraph (a)(3) of section 5363 authorizes the Office of Personnel Management to prescribe additional circumstances in which employees are entitled to pay retention. Under this authority, the regulations provide that pay retention applies to employees whose rates of basic pay are reduced as a result of the reduction or elimination of scheduled rates (5 CFR 536.104(a)(3)).

When these regulations were written, we recognized that it would not be appropriate to grant pay retention to an employee whose rate of basic pay is reduced as the result of a prevailing rate wage survey, and such a situation is specifically excluded from coverage under the regulations. However, the regulations do not recognize the possibility that Congress or the President may decide to reduce Federal pay rates in the public interest, and there is no specific exclusion from pay retention in the event of a statutory reduction in rates of pay under the General Schedule or a prevailing rate schedule. Therefore, if there is a Government-wide reduction in scheduled rates, either by statute or as a result of an alternative plan submitted by the President under 5 U.S.C. 5305(c), agencies and employees may be under the impression that affected employees will be entitled to pay retention.

To clarify this situation, we propose to revise the grade and pay retention regulations to provide specifically that pay retention does not apply to employees whose pay is reduced as the result of a statutory reduction in rates of pay under the General Schedule or a prevailing rate schedule, including a reduction authorized by a Presidential alternative pay plan.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, since it applies only to Federal employees.

List of Subjects in 5 CFR Part 536

Administrative Practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.

Loretta Cornelius,

Acting Director.

Accordingly, OPM proposes to revise Part 536 of Title 5, Code of Federal Regulations, as follows:

PART 536—GRADE AND PAY RETENTION

1. The authority citation for part 536 is revised to read as follows:

Authority: 5 U.S.C. 5361–5366.

2. In § 536.104, paragraph (a) introductory text and paragraph (a)(3) are revised to read as follows:

§ 536.104 Coverage and applicability of pay retention.

(a) Pay retention applies to any employee whose rate of basic pay otherwise would be reduced—

* * * * *

(3) As a result of a reduction or elimination of scheduled rates, special schedules, or special rates, but not as a result of—

(i) A statutory reduction in scheduled rates of pay under the General Schedule, including a reduction authorized under section 5305(c) of title 5, United States Code; or

(ii) A statutory reduction in a prevailing rate schedule established under subchapter IV of chapter 53 of title 5, United States Code, and Part 532 of this chapter or a reduction in such a schedule that reflects a decrease in the level of prevailing rates, as determined by a wage survey.

[FR Doc. 85–11914 Filed 5–15–85; 8:45 am]

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FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 545, 563, and 571

Finance Subsidiaries of Federal Associations; Financings Through Subsidiaries of Insured Institutions

Dated: April 30, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is proposing to amend its regulations pertaining to the establishment and operation of finance subsidiaries by federal associations. The proposed amendments are intended to respond to comments and other inquiries concerning the current regulatory provisions. In addition, the Board, as operating head of the Federal Savings and Loan Insurance

Corporation ("FSLIC" or "Corporation"), is proposing to require all institutions whose accounts are insured by the Corporation to include in their minimum net-worth calculation certain financings through subsidiaries.

DATES: Comments must be received by: July 8, 1985.

ADDRESS: Send comments to Director, Information Services Section Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Comments will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Joseph Longino, Attorney, Regulations and Legislation Division, (202) 377-6446, or David J. Bristol, Attorney, Corporate and Securities Division, (202) 377-6461, Office of General Counsel; Robert J. Pomeranz, Policy Analyst, Office of Policy and Economic Research, (202) 377-6209; or Edward Taubert, Deputy Associate Director, Policy Development, Office of Examinations and Supervision, (202) 377-6484, at the above address.

SUPPLEMENTARY INFORMATION: On July 12, 1984, the Board adopted a regulation (12 CFR 545.92) both to recognize the incidental authority of federal associations to establish finance subsidiaries and to ensure that the establishment and operation of these subsidiaries is in keeping with this authority and with safe and sound practices (49 FR 29357, July 20, 1984). The relationship between the parent association and its finance subsidiary is based on the parent's ability to exercise, through the subsidiary, its own authority to issue securities. Thus, the sole purpose of the finance subsidiary is to issue only those securities that the parent association is or could be authorized to issue and to remit the proceeds of the offering (less reasonable costs) to the parent association.

The Board found that the rule relieved an implied restriction and that it was in the public interest for federal associations to be permitted to take immediate advantage of the authority to issue securities through finance subsidiaries. Therefore, the rule was made effective upon publication. However, the Board solicited comments on the provisions of the rule and any other steps necessary to ensure that finance subsidiaries are established and operated in accordance with safe and sound practices. Eleven comment letters were received: three from trade associations; two from investment banking firms; two from law firms; and one each from a savings and loan association, a bank, a service corporation, and a securities rating agency. All of the letters received supported the regulation while suggesting various modifications. In addition, the Board's staff has received numerous inquiries and requests for opinions to clarify the meaning of certain provisions of the regulation. The Board is issuing this proposed rule to address the suggestions received and to respond to the requests for clarification.

Use of Third-Party Intermediaries

The Board has been asked to clarify whether a finance subsidiary could use a third party intermediary to issue securities to the public. The use of such intermediaries was suggested in connection with smaller associations. Due to their size and the limitations on the amount of assets they could provide to their finance subsidiaries, smaller associations may be precluded from individually issuing certain types of securities because the investor market dictates that the offering be a minimum volume size—perhaps as much as $100 million. The Board believes that the use of a third-party intermediary does not cause a finance subsidiary to fail to be characterized as an entity that issues securities, provided that the transaction between the subsidiary and the third-party intermediary may be structured and characterized as the issuance of securities by the subsidiary and the proceeds of that transaction are remitted to the parent association. The Board is proposing to amend paragraph (d)(1) of the regulation to clearly permit the use of third-party intermediaries. Further, the Board is of the opinion that a federal association may establish a "multi-tiered" finance subsidiary provided that each subsidiary can be characterized as a finance subsidiary.

Transactions Between Parent Association and Finance Subsidiary

The regulation limits the amount of "assets transferred or made available" by a parent association to its finance subsidiary. The phrase "assets transferred or made available" was intended to describe the financial resources from the point of view of the finance subsidiary, i.e. as assets carried on the books of the finance subsidiary. However, the Board has received a number of inquiries as to whether a parent association could issue a liability to its finance subsidiary and whether the liability so issued would be included in the limitations. The Board intended to permit parent associations to both transfer their own assets and to issue liabilities (such as non-qualifying subordinated debt or certificates of deposit ("CDs")) to their finance subsidiaries. The issuance of a deposit of savings account (typically a collateralized CD by the parent to its subsidiary will not result in a violation of the prohibition, set forth in paragraph (d)(2), against the subsidiary dealing in the deposits or savings accounts of its parent association (even if, upon the "collapse" of the subsidiary, the collateralized CD may be transferred to the holders of the subsidiary's securities). To clarify this intention, the Board proposes to amend the phrase to state "assets of, or liabilities issued by, a parent association, transferred or made available. . . ."

The amount of assets or liabilities transferred or made available is limited, first, in the aggregate to 30 percent of the book value of the association's total assets and, second, on a "per issuance" basis, to the amount necessary and customary for the issuance of the type of securities or 200 percent of the gross proceeds of the securities offering. These limitations are measured at the time of any transfer. Comments received suggested that these limitations be reduced or eliminated. The Board believes at this time that the aggregate limitation is necessary and appropriate to prevent an unsafe and unsound excessive reliance upon finance subsidiaries, and the Board does not propose to change this limitation. While the Board also believes that the "per issuance" limitation is also necessary to protect the parent association, the Board is aware that new financing vehicles have been developed in which the amount of assets or liabilities "necessary and customary" to support the issuance may exceed the 200-percent level (when the inital capitalization of the subsidiary is included). Therefore, the Board is proposing to increase the limitation to an amount not to exceed 250 percent of the gross proceeds of the securities issued by the subsidiary. Also, the Board will consider that a finance subsidiary has complied with the "necessary and customary" limitation if it can demonstrate that the level was selected to meet the rating criteria of a nationally recognized investment rating service. In addition, the Board is proposing to delegate to the Principal Supervisory Agent the authority to permit an association to exceed either the aggregate of "per issuance" limitations on a case-by-case basis.

The Board received a number of inquiries regarding the impact of the transfer of assets to the subsidiary. With regard to whether the assets transferred may continue to be included in the parent's assets, the Board believes that, since the finance subsidiary is a separate entity, any assets transferred

to the subsidiary may not be included as the parent's assets for purposes of determining whether an association is a "qualified institution" for purposes of § 5(r) of the Home Owner's Loan Act (12 U.S.C. 1464(4)) (pertaining to interstate branching by federal associations) and section 408(n) of the National Housing Act (12 U.S.C. 1730a(n)) and 12 CFR 584.2-2 (concerning activities of unitary savings and loan holding companies). However, assets classified as "scheduled items" will continue to be classified as such in accordance with the provision of 12 CFR 561.15(h).

Other inquiries concerned the accounting impact of the transfer of "underwater" assets (such as mortgages and mortgage-related securities with interest rates below current market rates). Since the finance subsidiary is wholly owned by its parent association, there need be no recognition of any loss, under Generally Accepted Accounting Principles ("GAAP"), when "underwater" assets are transferred to the finance subsidiary. additionally, since finance subsidiaries are wholly owned, GAAP requres consolidation of the subsidiary with is parent association. Reports to the Board are prepared on an unconsolidated basis, but require the use of the equity method of accounting for subsidiaries. Such accounting method is set forth in paragraph 19 of Accounting Principles Board Opinion No. 18, which states that:

> . . . an investor's net income for the period and its stockholders' equity at the end of the period are the same whether an investment in a subsidiary is accounted for under the equity method or the subsidiary is consolidated. . . .

As a result, that accounting method should be used in reports to the Board.

Paragraph (c)(4) permits an off-shore finance subsidiary to invest any funds constituting its capital in liquid assets or in the obligations of an affiliate of its parent association. However, the Board has not been presented with any evidence that such an exception is necessary for off-shore subsidiaries as an alternative to remitting the remaining equity (after the financing is completed) to its parent association. However, this provision could be used in an abusive manner by associations wanting to use a finance subsidiary to channel funds to affiliates in a manner not otherwise authorized. Therefore, the Board is proposing to delete this provision unless it receives comments presenting sufficient evidence supporting such an exception. Also, the Board is proposing a new paragraph (c)(4) which would treat collateralized liabilities issued by the parent association to its subsidiary in the same manner as collateralized guarantees. The current rule requires that the greater of the face amount of the guarantee or the market value of the collateral will count towards the 30-percent and 200-percent (or proposed 250-percent) limits of paragraphs (c)(1)(i) and (ii). The proposed amendment would recognize that the collateral pledged to a liability issued by the parent (such as a collateralized CD) is as unavailable for the general use of the association as is the collateral pledged to a guarantee. Also, the Board is proposing to amend this provision to require that the book value of the collateral be used for purposes of the 30-percent limitation and the market value be used for the proposed 250-percent limitation. The Board is further proposing to amend 12 CFR Part 571(a) to clarify that the transfer of assets from parent to finance subsidiary does not require Board approval under 12 CFR 563.22.

Guarantees by the Parent Association

Paragraph (c)(3) of the regulation permits a federal association to guarantee any obligation issued by its finance subsidiaries, but limits the guarantee in two respects. First, the guarantee is limited to the unpaid principal balance of the obligation. A number of commenters suggested that this limitation made such guarantees ineffective in protecting investors in the subsidiary's securities. The Board therefore is proposing to expand the amount of the guarantee. The proposed modification would also permit an association to guarantee the accrued but unpaid interest and redemption premium, as well as the unpaid principal balance, of the obligation of its subsidiary. Second, the current regulation requires that the total resources of the finance subsidiary issuing the obligation be exhausted before recourse may be had to the guarantee. Commenters suggested that this requirement could result in extensive litigation and costs for the investor attempting to discover all of the resources of the subsidiary before seeking recourse against the guarantee. It was suggested that this result would render the guarantee ineffective. The Board is therefore proposing to decrease the burden by requiring exhaustion only of the resources collateralizing, securing, pledged or otherwise committed to the payment of the obligation of the finance subsidiary.

Remitting Proceeds to the Parent Association

Paragraph (e) of the regulation requires a finance subsidiary to transfer all proceeds from the issuance of its securities to its parent association, net of the reasonable costs associated with issuing the securities and organizing the subsidiary. The regulation was silent on the methods by which a finance subsidiary could make such remittance. The Board's staff received numerous inquiries as to permissible methods to remit proceeds and their impact. The Board is therefore proposing to amend paragraph (e) in order to set forth the permissible methods.

First, a finance subsidiary would be permitted to remit proceeds by paying dividends on or by redeeming the common stock issued by the finance subsidiary to its parent association or by reducing any advance made by the parent association as part of the capitalization of the subsidiary. If the proceeds are remitted by redeeming the subsidiary's common stock, the parent association's investment in the finance subsidiary will be reduced for purposes of the aggregate investment limitation of paragraph (c)(1)(i). Second, proceeds would be permitted to be remitted through the purchase of any asset from, or liability issued by, the parent association, both of which become assets of the finance subsidiary. The assets or liabilities obtained in this manner would be included with those "transferred or made available", and therefore subject to the limitations of paragraph (c)(1). The effects of transferring assets from the parent to the subsidiary, described above, also would apply to transfers of assets in exchange for the proceeds of the securities issued by the subsidiary. Third, while any subordinated debt or capital stock (common or preferred) issued by the parent association would be able to be obtained by remitting proceeds, such subordinated debt or capital stock generally would not count as regulatory net worth (as defined in 12 CFR 561.13) for the parent association. All of the finance subsidiary's common stock is owned by its parent association and, therefore, the parent association itself, and not any outside investor in the finance subsidiary's securities, will be ultimately at risk in most cases. The Board believes that it would be inappropriate to permit the parent association to increase its regulatory net worth in this manner unless the association can demonstrate to the Board that the risk will be effectively transferred to those investing in the securities issued by the finance subsidiary, and that the risk will not reside primarily in the subsidiary or the parent. The proposal would require the association to structure the transaction so that no assets of the parent

association would be transferred to the finance subsidiary and the risk would be transferred to parties other than the finance subsidiary and any insured institution.

The Board is also proposing to amend paragraph (e) to permit the finance subsidiary to retain, as part of the reasonable costs of issuing securities, any necessary reserves. Securities issued by a finance subsidiary may contain a provision requiring the subsidiary to maintain assets or collateral at a specified level. If the value of these assets decline, the parent association may have to increase its investment in the finance subsidiary by providing additional assets. Instead, the amendment being proposed would permit a finance subsidiary to fund a reserve from the proceeds and to use this reserve to purchase further assets from its parent. The amount of this reserve, however, would be included as part of the "assets . . . transferred or made available" subject to the limits of paragraph (c)(1).

Transactions Involving Holding Company Subsidiaries

Paragraph (f)(1) declares that a finance subsidiary is not to be considered an "affiliate" of its parent association for purposes of the Savings and Loan Holding Company Act provision on transactions between affiliates (12 U.S.C. 1730a(d)). However, the Board adopted paragraphs (f) (2) and (3), pertaining to transactions of finance subsidiaries in a holding company context, to prevent a finance subsidiary from being used as a device to permit otherwise prohibited transactions between holding company subsidiary institutions and their affiliates. The Board made two exceptions: transactions receiving prior approval from the Board and transactions permitted by the finance-subsidiary regulation. The latter exception has led to some confusion. Therefore, the Board is proposing to amend paragraphs (f) (2) and (3) to set forth the types of transactions contemplated. In addition, the Board is proposing to clarify that the limitation of paragraph (f)(2) applies to both investments by the finance subsidiary in the parent institution and to investments by the parent in the finance subsidiary.

Notification and Prior Approval

Paragraph (g) of the regulation currently requires prior written notification to the Principal Supervisory Agent by an association before the association establishes a finance subsidiary or transfers any assets to an existing finance subsidiary. In keeping with the clarification discussed above, the Board is proposing to amend this requirement to include the transfer of any asset of, or liability issued by, an association. Also, the Board is proposing to allow a duly authorized executive committee of the association's board of directors to provide the required notification. This proposed change, however, would in no way decrease the responsibilities of the association's board of directors as described in paragraph (b) of the regulation.

While the Board believes that finance subsidiaries can provide associations with a valuable mechanism for using their resources to issue securities, the Board is concerned with the potential for increased risk to the FSLIC arising from the issuance of preferred stock by the finance subsidiary of a troubled association. It is entirely possible that a troubled association could transfer up to 30 percent of it most marketable assets to its finance subsidiary, which would, in turn, issue preferred stock. Should the parent association fail, the FSLIC might have no immediate claim on the assets of a properly structured finance subsidiary. In the case where both the parent association and the finance subsidiary fail, the FSLIC's claim on the finance subsidiary's assets might be subordinated to that of the preferred stockholders.

This concern becomes acute in the case of associations failing to meet their minimum net-worth requirement and those that are subject to supervisory agreements. While § 563.13(d) provides the Principal Supervisory Agents a wide range of authority with which to deal with associations failing to meet the minimum net-worth requirement, that regulation does not explicitly require prior approval of the establishment of a finance subsidiary. Further, the provisions of that regulation do not apply to associations that, for other reasons, may be operating under a supervisory agreement. Therefore, the Board is proposing to require any association that fails to meet its net-worth requirement as provided in § 563.13, or that is operating under any supervisory agreement, to obtain the prior written approval of its Principal Supervisory Agent before establishing a finance subsidiary. The Board intends that the Principal Supervisory Agent approve the establishment of a finance subsidiary by such an association unless the Principal Supervisory Agent finds that the establishment and operation of a finance subsidiary will adversely affect the financial condition or safe and sound operation of the parent association. In order to ensure timely review, the Board is proposing to require the Principal Supervisory Agents to notify the applicant that the application is complete, or that additional information is required, within ten days, and to rule upon such application within 30 days of such notice. Appeals of any adverse determination could be taken to the Board.

Financing Through a Subsidiary of an Insured Institution

In providing for the establishment of finance subsidiaries, the Board viewed finance subsidiaries as free standing and independent entities that would not increase the risk of the parent insured institution. The creation of finance subsidiaries potentially expose the parent institution to two sources of risk—credit risk and interest-rate risk. Credit risk refers to the potential loss from non-performing assets, and interest rate risk refers to the potential for loss resulting from the cost of liabilities responding more quickly to increases in interest rates than does the yield on assets.

As described above, the finance subsidiary rule contains several provisions to control the parent association's credit risk exposure from the activities of its finance subsidiary. These credit-risk control provisions include limiting the amount of excess collateral in the finance subsidiary, limiting the guarantee from the parent association to the finance subsidiary, requiring that the collateral supporting the finance subsidiary's securities be exhausted before recourse to the guarantee from the parent association, and requiring that scheduled items of the finance subsidiary be included in the calculation of the net-worth requirement of the parent insured institution.

There are, however, no such controls limiting the interest-rate risk of the finance subsidiaries (apart from the requirement that the parent association's board of directors, when authorizing the establishment of a finance subsidiary, do so in furtherance of a written business plan to reduce interest-rate risk). Interest-rate risk results from the mismatch of the maturities of an institution's assets and the liabilities funding those assets. The effect of a large levels of interest-rate risk on the savings institution industry is well documented. Interest-rate risk was the primary cause of the merger or failure of over 1,100 savings institutions between June 1980 and September 1984, with over a third of these institutions either liquidated or merged under supervisory or FSLIC mandate.

The Board has been extremely concerned with the continuing interest-rate-risk exposure of insured institutions. As a result, the Board has adopted an interest-rate-risk management rule (12 CFR 563.17–6) which requires boards of directors of insured institutions to monitor the interest-rate risk of their institutions and to adopt policies to control and reduce the interest-rate-risk exposure. In addition, the Board has revised its reporting requirements to provide the Board with information necessary to carefully monitor the interest-rate risk of all insured institutions.

The finance subsidiary rule, however, currently contains no provision to limit interest-rate risk (apart from the requirement that the parent association's board of directors, when authorizing the establishment of a finance subsidiary, do so in furtherance of a written business plan to reduce interest-rate risk). Under the current rule, an institution can, in effect, transfer interest-rate risk from the parent institution to the finance subsidiary by mismatching the maturity of the finance subsidiary's assets and securities. Since the finance subsidiary is owned by the insured institution, this transfer of interest-rate risk of the parent institution. The risk transfer does, however, potentially reduce the parent institution's net-worth requirement because the securities issued by the finance subsidiary are not added to the liabilities of the parent institution for the calculation of the net-worth requirement.

The Board did not intend to remove the net-worth requirements from the finance subsidiary liabilities when those liabilities, coupled with the corresponding assets, continue to expose the parent to substantial interest-rate risk. Rather, the Board believes that the net-worth requirement of the parent institution should omit the finance subsidiary's liabilities only when there is no substantial interest-rate risk in the finance subsidiary. The proposed rule would accomplish this by requiring that the net proceeds of the securities issued by the finance subsidiary be included in the liabilities of the parent association for the purpose of calculating the parent's net-worth requirement unless the finance subsidiary is effectively immunized from interest-rate risk.

The Board recognizes that the potential impact described above is not limited to federal associations. State-chartered insured institutions may also be authorized, under State law, to conduct such activities through a service corporation or operating subsidiary. Therefore, the Board is proposing to adopt a new regulation, § 563.13–2, to address the potential problems of both state- and federally-chartered insured institutions. This proposal would apply to any borrowing or issuance of a security by a finance subsidiary, service corporation, or operating subsidiary of an insured institution (other than the issuance of capital stock by the subsidiary to its parent), the proceeds of which are substantially remitted to the insured institution. This is intended to include an insured institution's use of service corporations or operating subsidiaries in a manner similar to the use of finance subsidiaries (although these other entities might not meet all of the requirements of a federal association's finance subsidiary). However, it is not intended to include a service corporation or operating subsidiary that borrows or issues secutities primarily for its own purposes, i.e., to use the proceed for its own operations rather than for the purpose of remitting the proceeds to its parent. The Board specifically requests comment concerning the percentage of proceeds that would be required to be remitted for a financing through a subsidiary to be considered "substantially remitted" for the purposes of the proposed rule.

The proposed § 563.13–2 would treat the net proceeds of any financing through a subsidiary as if the proceeds were part of the total liabilities of the subsidiary's parent institution for purposes of calculating the minimum net-worth requirement set forth in § 563.13(b). In the case of a service corporation or operating subsidiary owned by an insured institution and other entities, a *pro rata* portion of the net proceeds would be included in the total liabilities of the prarent institution. Two execptions would be granted under the proposal. First, and execption is provided if the duration of the secruities issued by the subsidiary are, at the time of issuance, substantially the same as the duration of the assets held by the subsidiary. This exception reflects the primary concern of the Board in proposing this rule—the interest-rate risk of the parent and the subsidiary. As a result, only those financings that result in further interest-rate risk would be reflected in the calculation of the parent's net-worth requirement. The second exception applies to proceeds that are remitted in exchange for a liability of the parent institution. This exception is intended to avoid counting the proceeds twice in the calculation of the minimum net-worth requirement, i.e. first as a financing through a subsidiary and again as a liability issued by the parent institution.

Duration measures the weighted average maturity or repricing period of a stream of payments. If the duration of an asset exactly equals the duration of the liability funding the asset, then both the asset and liability will on the average reprice at the same time, and the resulting income stream is, in effect, immunized against changes in interest rates.

There are several measures of duration. The most commonly used duration measure is one developed by Macaulay (see, Macaulay, F. R. *Some Theoretical Problems Suggested by the Movement of Interest Rates, Bond Yields, and Stock Prices in the U.S. Since 1856.* New York: National Bureau of Economic Research (1938)) and is the measure the Board will use to determine if the durations of the assets are substantially similar to the duration of the subsidiary's securities. The Board is aware of the theoretical limitation of Macaulay's duration measurement and of the development of other duration measures, and solicits comment on other duration measures which may provide appropriate measurements of interest-rate risk in specific situations.

Under the proposal, the duration of the assets would be considered substantially similar to the duration of the securities if the duration of the assets is between 90 percent and 110 percent of the duration of the securities. The Board believes that many structured financings, such as collateralized mortgage obligations ("CMOs"), would fall within this range and intends to continue the favorable net-worth treatment for these types of issues. For example, a CMO issued by the Federal Home Loan Mortgage Corporation was well within the range proposed in this rule. The Board specifically requests comments as to whether this range is appropriate.

Consider, for example, a subsidiary with only one asset which is a five-year, $100 par bond with a 12-percent coupon interest rate and a current market yield of ten percent. The duration of the bond is 3.95 years. If the subsidiary issues a security to support the bond with a duration between 3.56 and 4.35 years, the security will be considered to have a duration that is substantially similar. If the security was, for example, a $160 par value, four-year bond with zero-percent interest rate and a 12-percent market yield, the security would have a duration of four years at the time of issuance. Since this duration is between the acceptable range of 3.56 years to 4.35 years, the net proceeds from the security

would not be added to the liabilities of the parent for purposes of caluclating the net-worth requirement (unless they were remitted in exchange for a liability issued by the parent which, of course, is included in the calculation of the parent's minimum net-worth requirement). If a subsidiary, however, issued a $100 par value, four-year note with a 12-percent coupon and market yield, the duration of the security would be 3.29 years. Since the duration of the two-year note is less than 90 percent of the duration of the five-year asset, the net proceeds of the subsidiary would be added to the liabilities of the parent for computation of the parent's net-worth requirement. The duration calculations used in these examples are set forth in the tables below.

Year	Cash flow	Present value at 10 pct	Time weighted present value [1]
$100 Par Value 5-Year 12 pct Bond			
0.5	6.00	5.71	2.86
1.0	6.00	5.44	5.44
1.5	6.00	5.18	7.77
2.0	6.00	4.94	9.87
2.5	6.00	4.70	11.75
3.0	6.00	4.48	13.43
3.5	6.00	4.26	14.92
4.0	6.00	4.06	16.24
4.5	6.00	3.87	17.40
5.0	106.00	65.07	325.37
Total present value [2]		107.4	
Total time-weighted present value [3]			425.08
Duration [4]			3.95
$160 Par Value 4-year 0 pct Bond			
0.5	0.00	0.00	0.00
1.0	0.00	0.00	0.00
1.5	0.00	0.00	0.00
2.0	0.00	0.00	0.00
2.5	0.00	0.00	0.00
3.0	0.00	0.00	0.00
3.5	0.00	0.00	0.00
4.0	160.00	100.39	401.54
Total present value [2]		100.39	
Total time-weighted present value [3]			401.54
Duration [4]			4.00
$100 Par Value 4-Year 12 pct Liability			
0.5	6.00	5.66	2.83
1.0	6.00	5.34	5.34
1.5	6.00	5.04	7.56
2.0	6.00	4.75	9.51
2.5	6.00	4.48	11.21
3.0	6.00	4.23	12.69
3.5	6.00	3.99	13.97
4.0	106.00	66.51	266.02
Total present value [2]		100.00	
Total time-weighted present value [3]			329.12
Duration [4]			3.29

[1] Present value times year.
[2] Sum of present values.
[3] Sum of time-weighted present values.
[4] Total time-weighted values divided by total present value.

However, if the proceeds are remitted in exchange for a liability issued by the parent, the parent would not be required to count this transaction twice (i.e. as the issuance of a liability and as a financing subject to the proposed rule), but would consider only the issuance of the liability to the subsidiary in calculating the minimum net-worth requirement.

For the reasons set forth in the discussion of the proposed amendments pertaining to notification and prior approval, above, the Board believes that any insured institution that fails to meet its net-worth requirement as provided in § 563.13, or that is operating under any supervisory agreement, should not conduct a financing through a subsidiary without the prior written approval of its Principal Supervisory Agent. Therefore, the proposed § 563.13–2(c) contains a similar prior-approval requirement as that proposed for federal associations in § 545.82(g)(3).

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (1980), the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objectives and legal basis underlying the proposed rule.* These elements are incorporated above in the supplementary information regarding the proposal.

2. *Small entities to which the proposed rule would apply.* The proposed rule would apply to institutions whose accounts are insured by the FSLIC and who undertake any financing through a subsidiary, as defined in the proposal. The proposed rule would also apply specifically to the finance subsidiaries of federal associations.

3. *Impact of the proposed rule on small institutions.* The proposed rule would authorize small federal associations to issue securities through a subsidiary, and to pool such securities through a third-party intermediary, thus increasing these associations' ability to raise funds. The proposed rule would require some small institutions, that undertake a duration mismatched financing through a subsidiary, to increase their capital to reflect the interest-rate risks of the financing.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that duplicate, overlap, or conflict with this proposal.

5. *Alternatives to the proposed rule.* There are no alternatives that would be less burdensome than the proposal in addressing the concerns expressed in the supplementary information set forth above.

List of Subjects in 12 CFR Parts 545, 563 and 571

Savings and loan associations, Savings banks, Securities.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Parts 545, 563, and 571, Subchapters C and D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

1. The authority for 12 CFR Parts 545, 563, and 571 continues to read:

Authority: Sec. 5, 48 Stat. 132, as amended. (12 U.S.C. 1464); Secs. 401, 402, 403, 405, 407, 48 Stat. 1255, 1256, 1257, 1260, as amended (12 U.S.C. 1724, 1725, 1728, 1728, 1730); Reorg. Plan. No. 3 of 1947, 12 FR 4891, 3 CFR, 1943–1948 Comp., p. 1071.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

2. Section 545.82 would be revised to read as follows:

§ 545.82 Finance subsidiaries.

(a) *Establishment of finance subsidiaries.* A Federal association may establish a finance subsidiary whose sole purpose is to issue debt or equity securities that the association is authorized to issue directly (or, if the parent association is a mutual association, would be authorized to issue if it converted to the stock form) and to remit the net proceeds of such issuance to the association, subject to the provisions of this section.

(b) *Responsibilities of the parent association's board of directors.* Prior to the establishment of any finance subsidiary, the board of directors of the Federal association shall, by resolution, vote to authorize the creation of a finance subsidiary in furtherance of a written business plan to reduce interest-rate risk and to control credit risk, and shall agree to make the books and records of its finance subsidiary available to the Board. The board of directors shall be responsible for monitoring the use of all proceeds obtained through the issuance of securities by the finance subsidiary and shall ensure compliance with the business plan pursuant to which the finance subsidiary was established.

(c) *Transactions between a parent association and its finance subsidiaries.* (1) A Federal association may provide the capital to establish one or more finance subsidiaries by transferring to one or more finance subsidiaries assets of or liabilities issued by the association: *Provided,* that

(i) The aggregate book value of all assets of, and liabilities issued by, the parent association transferred or made available to finance subsidiaries, shall not, without the prior written approval of the Principal Supervisory Agent of the parent association's Federal Home Loan

Bank district, exceed 30 percent of the book value of the association's total assets determined as of the date any assets or liabilities are transferred or made available;

(ii) The aggregate current market value of assets of, and liabilities issued by, the parent association transferred or made available shall not, without the prior written approval of the Principal Supervisory Agent, exceed the amount necessary and customary for the issuance of the type of securities to be issued by the subsidiary (which may be required by the rating criteria of a nationally recognized investment rating service) or 250 percent of the gross proceeds resulting from the offerings of securities by the finance subsidiary, whichever is less; and

(iii) For the purpose of calculating the limitations set forth in paragraphs (c)(1)(i) and (ii) of this section, assets of, and liabilities issued by, the parent association which are considered to be transferred or made available to a finance subsidiary include such assets or liabilities to capitalize the finance subsidiary, to collateralize a securities offering by an established finance subsidiary, to maintain collateral levels for any security issued by the finance subsidiary, any guarantee issued by the parent association with respect to the obligations of the finance subsidiary or any collateral for such guarantee as provided in paragraph (c)(4) of this section, any portion of the proceeds of the securities issued by the subsidiary held as reserves, and any assets or liabilities obtained by the subsidiary by remitting to the parent association the proceeds of the securities issued by the subsidiary.

(2) Finance subsidiaries shall not be consolidated with their parent association for the purposes of calculating the net-worth requirement of § 563.13 of this Chapter. Finance subsidiaries authorized by this section shall be subject to the requirements of § 563.13–2 of this Chapter.

(3) An association may guarantee any obligation issued by its finance subsidiaries: *Provided*, that the guarantee shall not exceed the unpaid principal balance and the accrued but unpaid interest and redemption premium of the obligation, and *Provided further*, that the guarantee shall provide that the resources collateralizing, securing, pledged or otherwise committed to the payment of the obligation of the finance subsidiary shall be exhausted before recourse shall be had to the guarantee. Such guarantee shall not be considered to be an outstanding loan for purposes of the loans-to-one-borrower limitations of § 563.9–3 of this Chapter.

(4) If a guarantee or a liability issued by the parent association is collateralized, then the greater of the face amount of such guarantee or liability, or the book value of the collateral, shall be included in the total amount that may be transferred by the parent association subject to the limitation of paragraphs (c)(1)(i) of this section, and the greater of the face amount of such guarantee or liability, or the market value of the collateral, shall be included in the total amount that may be transferred by the parent association subject to the limitation of paragraph (c)(1)(ii).

(d) *Issuance of securities by finance subsidiaries.* (1) A finance subsidiary of a Federal association may issue, either directly or through a third-party intermediary, any security which its parent association is authorized to issue (or, if the parent association is a mutual association, would be authorized to issue if it converted to the stock form), subject to the provisions of this section.

(2) A finance subsidiary shall not issue or deal in the deposits and savings accounts of its parent association. A finance subsidiary shall not state or imply that securities issued by it are insured by the Federal Savings and Loan Insurance Corporation.

(3) A finance subsidiary shall not issue any security the payment, maturity, or redemption of which may be accelerated upon the condition that its parent association is insolvent or has been placed into receivership.

(4)(i) An association providing capital to a finance subsidiary shall own 100 percent of the finance subsidiary's outstanding voting common stock and may not transfer or otherwise assign any interest in such stock to any other person or entity, without the prior written approval of the Board.

(ii) A finance subsidiary may provide for voting rights for holders of preferred stock, under such conditions and in such manner and to the extent customary to protect the rights of such holders of preferred stock, including but not limited to the following conditions (except that, upon the expiration of any event giving rise to the exercise of such voting rights, such rights shall be vested exclusively as provided in paragraph (d)(4)(i) of this section):

(*a*) The finance subsidiary fails to pay dividends for at least one dividend period;

(*b*) Any merger, consolidation, or reorganization of the finance subsidiary or its parent association (except in a supervisory case) is sought to be authorized, where the issuing finance subsidiary or its parent association is not the survivor, provided that the net worth of the resulting finance subsidiary or parent association available for payment of any class of preferred stock is less than the net worth available for such class prior to the merger, consolidation, or reorganization;

(*c*) Action is sought to be authorized which would create any class of preferred stock having a preference or priority over an outstanding class or classes of preferred stock;

(*d*) Any action is sought to be authorized which would adversely change the specific terms of any class of preferred stock;

(*e*) Action is sought to be authorized which would increase the number of shares of a class of preferred stock, or the number of shares of a class of preferred stock ranking prior to or in parity with another class of preferred stock; or

(*f*) Action is sought which would authorize the issuance of an additional class or classes of preferred stock without the finance subsidiary having met specified financial standards.

(e) *Transfer of proceeds of the issuance of securities.* All proceeds from the issuance of any security by a finance subsidiary, net of the reasonable costs (including any necessary reserves) associated with the issuance of the securities and the organization of the finance subsidiary, shall be remitted to the finance subsidiary's parent Federal association. Such remittance may be made by the payment of dividends on the common stock issued by the finance subsidiary to its parent; by a redemption of the common stock issued by the finance subsidiary to its parent association; by the repayment of any loan made by the parent to the subsidiary as part of the capitalization of the subsidiary; or through the purchase of assets of, or liabilities issued by, the parent association (subject to the limitations of paragraph (c)(1) of this section): *Provided*, that any capital stock (common or preferred), mutual capital certificate, subordinated debt, or any other instrument that would otherwise be considered to be regulatory net worth (as defined in § 561.13 of this Chapter) shall not, if issued by the parent association to its finance subsidiary, be included in the parent association's regulatory net worth unless (1) no assets of the parent association has been transferred to the finance subsidiary, (2) the transaction transfers the risk to parties other than the finance subsidiary or any insured

institution, and (3) the transaction is approved by the Board.

(f) *Holding company subsidiaries and finance subsidiaries.* (1) For purposes of section 408(d) of the National Housing Act (12 U.S.C. 1730a(d)), if the parent Federal association is a subsidiary of a holding company, the finance subsidiary shall not be considered to be an affiliate of its parent association.

(2)(i) A finance subsidiary shall make no investment in, or loan, discount, or extension of credit to, its parent association, if the parent association is a subsidiary of a holding company, without the prior written approval of the Board, except as provided in paragraph (e) of this section.

(ii) If the parent association is a subsidiary of a holding company, the association shall make no investment in, or loan, discount, or extension of credit to, its finance subsidiary, without the prior written approval of the Board, except as provided in paragraphs (c)(1) and (e) of this section.

(3) If the parent association is a subsidiary of a holding company, a finance subsidiary shall make no investment in, or loan, discount or extension of credit to, any affiliate of its parent association, without the prior written approval of the Board.

(g) *Notification to the Principal Supervisory Agent.* (1) Prior to the establishment of any finance subsidiary, or prior to any transfer of assets of, or liabilities issued by, the parent association to an existing finance subsidiary, the board of directors of the Federal association, or a duly authorized executive committee thereof, shall send written notification to the association's Principal Supervisory Agent, specifying:

(i) The name of the finance subsidiary;

(ii) Its jurisdiction of incorporation;

(iii) The amount of assets of, or liabilities issued by, the parent association (market value and book value as of date within 30 days) to be transferred or made available (including the terms of any guarantee to be issued by the association or any affiliate of the association), the book value of all such assets or liabilities previously transferred or made available, and the amount representing 30 percent of the book value of the parent association's total assets as of such date;

(iv) When known and to the extent permitted by the Securities Act of 1933:

(*a*) A description of the securities to be issued, including the term thereof;

(*b*) The aggregate amount of the offer;

(*c*) The anticipated interest or dividend rates and yields, or the range thereof, and the frequency of payments;

(*d*) The minimum denomination of the securities; and

(*e*) Where the subsidiary intends to market the securities.

(2) Within 10 days after the issuance of any security, a finance subsidiary shall notify, in writing, the Principal Supervisory Agent of its parent association and shall provide to the Principal Supervisory Agent a copy of any prospectus, offering circular, or other similar document concerning an issuance.

(3)(i) Any association that fails to meet its net-worth requirement as provided in § 563.13 of this Chapter, or that is operating under any supervisory agreement, shall not establish a finance subsidiary without the prior written approval of its Principal Supervisory Agent.

(ii) Within 10 days of the filing of the information required by paragraph (g)(1) of this section, or any additional information, by an association subject to paragraph (g)(3)(i), the Principal Supervisory Agent shall notify the applicant in writing either that all information required has been filed or that additional information must be filed. If the Principal Supervisory Agent does not act on an application within 30 days of the date of written notice that all required information has been filed, such application shall be deemed to be approved.

(iii) The Principal Supervisory Agent shall approve the application of an association subject to the requirements of paragraph (g)(3)(i) of this section unless the Principal Supervisory Agent finds that the establishment and operation of a finance subsidiary will adversely affect the financial condition or safe and sound operation of the parent association. An adverse determination made by the Principal Supervisory Agent may be challenged by filing, within 30 days of receipt of written disapproval, a petition for reconsideration with the Board. The association shall file its petition with the Office of the Secretary to the Board, and shall send a copy to the Principal Supervisory Agent. The Board shall grant or deny a petition for reconsideration within 30 days of receipt. If the Board does not disapprove or deny such petition within such time, such application shall be deemed to be granted.

(h) *Examination of finance subsidiaries.* A finance subsidiary shall agree in writing to permit and to pay the costs of such examinations as the Board deems necessary.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

2. Amend § 563.13(g)(1) by adding at the end thereof the sentence "Total liabilities shall also include the amount of any financing through a subsidiary as required by § 563.13–2 of this Part."

3. Add a new § 563.13–2, as follows:

§ 563.13–2 Financing through subsidiaries.

(a) "Financing through a subsidiary" means any issuance of a security (other than the issuance of capital stock by the subsidiary to its parent) by a finance subsidiary, service corporation, or operating subsidiary owned, directly or indirectly, by an insured institution, the proceeds of which are substantially remitted to the insured institution.

(b) For purposes of § 563.13(g)(1) of this Part, an amount equal to the net proceeds of any financing through a subsidiary (or, in the case of a service corporation or operating subsidiary owned by an insured institution and other entities, a *pro rata* portion of the net proceeds) shall be included in the total liabilities of the subsidiary's parent institution unless either:

(1) The duration of the securities issued by the subsidiary are, at the time of issuance, substantially the same as the duration of the assets pledge to or funding the securities issued by the subsidiary, or

(2) To the extent that the proceeds are remitted in exchange for a liability issued by the parent institution, that such liability is otherwise included in the parent institution's total liabilities pursuant to § 563.13(g)(1).

(c)(1) Any association that fails to meet its net-worth requirement as provided in § 563.13, or that is operating under any supervisory agreement, shall not establish a finance subsidiary without the prior written approval of its Principal Supervisory Agent. To obtain the written approval of the Principal Supervisory Agent, the board of directors of the institution, or an authorized executive committee thereof, shall send a written application to the association's Principal Supervisory Agent, specifying:

(i) The name of the finance subsidiary;

(ii) Its jurisdiction of incorporation;

(iii) The amount of assets of, or liabilities issued by, the parent institution (market value and book value as of date within 30 days) to be tranferred or made available (including the terms of any guarantee to be issued by the institution or any affiliate of the institution), the book value of all such assets or liabilities previously

transferred or made available, and the amount representing 30 percent of the book value of the parent institution's total assets as of such date;

(iv) When known and to the extent permitted by the Securities Act of 1933:

(*a*) A description of the securities to be issued, including the term thereof;

(*b*) The aggregate amount of the offer;

(*c*) The anticipated interest or dividend rates and yields, or the range thereof, and the frequency of payments;

(*d*) The minimum denomination of the securities; and

(*e*) Where the subsidiary intends to market the securities.

(2) Within 10 days of the filing of the information required by paragraph (c)(1) of this section, or any additional information, by an institution subject to paragraph (c)(1), the Principal Supervisory Agent shall notify the applicant in writing either that all information required has been filed or that additional information must be filed. If the Principal Supervisory Agent does not act on an application within 30 days of the date of written notice that all required information has been filed, such application shall be deemed to be approved.

(3) The Principal Supervisory Agent shall approve the application of an institution subject to the requirements of paragraph (c)(1) of this section unless the Principal Supervisory Agent finds that the establishment and operation of a finance subsidiary will adversely affect the financial condition or safe and sound operation of the parent institution. An adverse determination made by the Principal Supervisory Agent may be challenged by filing, within 30 days of receipt of written disapproval, a petition for reconsideration with the Corporation. The association shall file its petition with the Office of the Secretary of the Board, and shall send a copy to the Principal Supervisory Agent. The Corporation shall grant or deny a petition for reconsideration within 30 days of receipt. If the Corporation does not disapprove or deny such petition within such time, such application shall be deemed to be granted.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 571—STATEMENTS OF POLICY

§ 571.5 [Amended]

4. Amend § 571.5(a) by inserting after the second sentence thereof the sentence "Transactions between an insured institution and its finance subsidiary, in accordance with § 545.82 of this Chapter, shall not be considered to be a transfer."

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 85-11895 Filed 5-15-85; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-CE-14-AD]

Airworthiness Directives; Pilatus Aircraft Ltd., and Fairchild-Hiller Model PC-6 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to Pilatus Aircraft Ltd., Model PC-6 Porter and Turbo-Porter (up to and including Serial Number 844) and Fairchild-Hiller Model PC-6 (Serial Numbers 2001 up to and including 2092) airplanes which would require inpsection for cracks in the areas adjacent to the vertical stabilizer rudder hinge attachment points, horizontal stabilizer elevator bearing bracket attachment points and the horizontal stabilizer front spar rectangular cutout. Pilatus Aircraft Ltd. has received reports of cracks being found in those areas. Inspection of these areas on the vertical and horizontal stabilizers will insure the continued control system integrity and thus prevent the possible loss of airplane control.

DATES: Comments must be received on or before June 20, 1985.

ADDRESSES: Pilatus Aircraft Ltd., Service Bulletins (S/B) No. 142 dated December, 1984, S/B No. 143 dated December, 1984, and S/B No. 144 dated December, 1984, applicable to this AD may be obtained from Pilatus Aircraft Ltd., CH6370-Stans, Switzerland, or the Rules Docket at the address below.

Fairchild-Republic (formerly Fairchild-Hiller) Service Letters PC6-55-2, dated April 9, 1985, PC6-55-3, dated April 9, 1985, and PC6-55-4, dated April 9, 1985, applicable to this AD may be obtained fron Fairchild-Republic Corporation, Showalter Road, Hagerstown, Maryland 21740 or the Rules Docket at the address below.

Send comments on the proposal in duplicate to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 85-CE-14-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. H. Chimerine, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone 513.38.30; or Mr. H. C. Belderok, Foreign FAR 23 Section, Federal Aviation Administration, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications, received on or before the closing date for comments specified above, will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-CE-14-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

Pilatus, the manufacturer, has received reports of: (a) Cracked Left Hand (LH) and Right Hand (RH) cap angles adjacent to the rudder hinge attachment points on the vertical stabilizer; (b) cracked upper and lower cap angles adjacent to the elevator bearing bracket attachment points on the horizontal stabilizer and (c) cracks propagating from the corners, in particular the upper corners, of the rectangular cutout in the front spar of the horizontal stabilizer adjacent to the

elevator control cables pulley assembly on Model PC–6 airplanes. Fairchild-Republic (formerly Fairchild-Hiller) who manufactured PC–6 model airplanes under license from Pilatus also found cracks in the areas described above. As a result, Pilatus Aircraft Ltd. has issued S/B Nos. 142, 143 and 144, and Fairchild-Republic Service Letters PC6–55–2, PC6–55–3 and PC6–55–4 which require inspection for cracks (a) using a dye penetrant procedure on the LH and RH cap angles adjacent to the rudder hinge attachment points on the vertical stabilizer, (b) using a dye penetrant procedure on the upper and lower cap angles adjacent to the elevator bearing bracket attachment points on the horizontal stabilizer and (c) by visually checking the area around the rectangular cutout in the front spar of the horizontal stabilizer adjacent to the elevator control cables pulley assembly, and repair in accordance with service bulletin instructions if any cracks are found. The Swiss Federal Office of Civil Aviation (FOA) who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Switzerland has classified these service bulletins, and the actions recommended therein by the manufacturer, as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Swiss registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the FOA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of S/B Nos. 142, 143 and 144 all dated December 1984 (Fairchild-Republic Service Letters PC6–55–2, PC6–55–3 and PC6–55–4 are the U.S. equivalent) and the mandatory classification of these service bulletins by the FOA. Based on the foregoing, the FAA believes that the condition addressed by S/B Nos. 142, 143 and 144 is an unsafe condition that may exist on other products of this type design certified for operation in the United States. Consequently, the proposed AD would require inspection for cracks in certain Pilatus and Fairchild-Hiller Model PC–6 airplanes (a) using a dye penetrant procedure on the LH and RH cap angles adjacent to the rudder finge attachment points on the vertical stabilizer, (b) using a dye penetrant procedure on the upper and lower cap angles adjacent to the elevator bearing bracket attachment points on the horizontal stabilizer and (c) by visually checking the area around the rectangular cutout in the front spar of the horizontal stabilizer adjacent to the elevator control cables pulley assembly, and repair in accordance with service bulletin instructions if any cracks are found.

There are approximately 22 airplanes (11 Swiss and 11 U.S.) affected by the proposed AD. The cost of complying with the proposed AD is estimated to be $4,235 ($192.50 per airplane based upon 5.5 manhours for the inspection @ $35/manhour) to the private sector.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A draft regulatory evaluation has been prepared and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location identified under the caption **"ADDRESSES"**.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

Pilatus Aircraft, Ltd., and Fairchild-Hiller: Applies to Model PC–6 series airplanes (S/N 1 and including 844, and 2001 to and including 2092) certificated in any category.

Note.—Service Bulletin (S/B) Numbers (No.) 142, 143 and 144 all dated December, 1984, are applicable to Pilatus Aircraft Ltd., built airplanes which are identified by Serial Numbers (S/N) below 1000, and Service Letters (S/L) PC6–55–2, PC6–55–3 and PC6–55–4 all dated April 9, 1985, are applicable to Fairchild-Hiller built airplanes which are identified by S/N's above 2000.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent a possible loss of airplane control accomplish the following:

(a) Within the next 25 hours time-in-service (TIS) after the effective date of this AD.

(1) On airplanes S/N 1 and including 826 and 2001 to and including 2092 (except 524, 676, 707, 710 and 816) perform the required inspection and corrective action if needed in accordance with paragraphs (b), (c) and (d) of this AD, and

(2) On airplanes S/N 827 to and including 844 perform the required inspection and corrective action if needed in accordance with paragraph (d) of this AD.

(b) Using a dye penetrant test method inspect the left hand and right hand cap angles adjacent to the rudder hinge attachment points on the vertical stabilizer for cracks, in accordance with S/B No. 142 Section 2, "ACCOMPLISHMENT INSTRUCTIONS", paragraph (para) A "INSPECTION" or S/L PC6–55–2.

If cracks are found, prior to further flight replace the defective cap angle and modify the vertical stabilizer in accordance with S/B No. 142, Section 2, "ACCOMPLISHMENT INSTRUCTIONS" para. B "MODIFICATION", or S/L PC6–55–2.

(c) Using a dye penetrant test method inspect the upper and lower cap angles adjacent to the elevator bearing bracket attachment points on the horizontal stabilizer in accordance with S/B No. 143, Section 2 "ACCOMPLISHMENT INSTRUCTIONS", para. A "INSPECTION", or S/L PC6–55–3.

(1) If cracks are found, prior to further flight, repair in accordance with the repair scheme of S/B No. 143 or S/L PC6–55–3, and in addition;

(2) If the bolt hole is less than 0.120 inches (in.) (3mm) from the edge of the cap angle, modify the horizontal stabilizer prior to further flight in accordance with S/B No. 143, Section 2 "ACCOMPLISHMENT INSTRUCTIONS", para. B "MODIFICATION" or S/L PC6–55–3.

(d) Visually inspect the area around the rectangular cutout located in the front spar of the horizontal stabilizer, adjacent to the elevator control cables pulley assembly, in accordance with S/B No. 144, Section 2 "ACCOMPLISHMENT INSTRUCTIONS", para. B "CRACK INSPECTION", or S/L PC6–55–4. If cracks are found and;

(1) If cracks is longer than 0.20 in. (5mm) install within the next 50 hours TIS standard repair plate (P/N 113.45.06.027) in accordance with S/B No. 144 Section 2 "ACCOMPLISHMENT INSTRUCTIONS", para. D. "INSTALLATION OF STANDARD REPAIR PLATE" or S/L PC6–55–4.

(2) If any cracks is longer than 0.20 in. (5mm) but less than 0.80 in. (20mm), prior to further flight install standard repair plate (P/N 113.45.06.027) in accordance with paragraph (d)(1) of this AD.

(3) If any crack is longer than 0.80 in. (20mm), prior to further flight repair the horizontal stabilizer in accordance with S/B No. 144, Section 2"ACCOMPLISHMENT INSTRUCTIONS", para. C "SPECIAL PROCEDURES" or S/L PC6–55–4.

(e) Each 100 hours TIS after the initial inspection:

(1) On airplanes S/N 1 to and including 826 and 2001 to and including 2092 (except 524, 676, 707, 710 and 816) repeat the inspection required by paragraph (b) of this AD, until the modification described in S/B No. 142, paragraph 2.B "MODIFICATION" or S/L PC6–55–2 is complied with, at which time this repetitive inspection is no longer required.

(2) On airplanes S/N 1 to and including 844 and S/N 2001 to and including 2092 repeat the inspection required by paragraph (d) of this AD.

(f) The intervals between the repetitive 100 hour TIS inspections required by paragraph (e) of this AD may be adjusted up to 10 percent of the specified interval to allow accomplishment of these inspections concurrent with other scheduled maintenance of the airplane.

(g) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(h) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and § 11.85 of the Federal Aviation Regulations (14 CFR 11.85))

Issued in Kansas City, Missouri, on May 6, 1985.

Murray E. Smith,

Director, Central Region.

[FR Doc. 85-11788 Filed 5-15-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 103

[Docket No. 24242; Petition Notice PR 85-1]

Eipper Aircraft, Inc.; Regulation of Ultralight Vehicles

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Reopening of comment period on petition for rulemaking.

SUMMARY: The FAA has received a petition for rulemaking from Eipper Aircraft, Inc., proposing to establish what it considers to be more readily enforceable requirements for operation of ultralight vehicles. The petitioner proposes to (1) improve ultralight aircraft safety; (2) foster responsibility for safety by the ultralight industry and ultralight consumer through accountability; (3) simplify regulations, and thus (4) enhance uniform enforcement. The FAA published substantive parts of the petition in the **Federal Register** on February 14, 1985 (50 FR 6312), with the comment period closing on April 15, 1985. Based on a request from the petitioner to extend the comment period, the FAA is reopening the comment period for an additional 60 days.

DATE: Comments must be received on or before July 15, 1985.

ADDRESS: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. 24242, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald W. Myres, General Aviation and Commercial Division, Office of Flight Operations, (202) 426-8150, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

SUPPLEMENTARY INFORMATION: The FAA has received a request for extension of the comment period on the subject proposal from Eipper Aircraft, Inc. Eipper states that it has been informed by a significant number of people that the petition, as published in the **Federal Register**, was misidentified as a notice of proposed rulemaking (NPRM) rather than a petition. Eipper Aircraft further states that this error resulted in a lack of comments on its petition, and that a 60-day extension will provide ample time for those who wish to comment.

The FAA has considered Eipper Aircraft's request for extension of the comment period and does not agree with its contention that the petition was misidentified as an NPRM. The FAA clearly states in the publication that the summary does not propose a regulatory rule for adoption, represent an FAA position, or otherwise commit the agency on the merits of the petition.

The petition was published in a separate part of the **Federal Register** for February 14, 1985, and clearly marked "Regulation of Ultralight Vehicles; Eipper Aircraft; Petition for Rulemaking."

The FAA is concerned, however, that all interested persons have an adequate opportunity to comment, and believes that it would be appropriate to reopen the comment period for an additional 60 days in light of the complexity of the issues involved in the petition and the petitioner's concern that those issues be adequately responded to by industry and the public.

Accordingly, the comment period on the petition of Eipper Aircraft published in the **Federal Register** on February 14, 1985 (50 FR 6312) is reopened until July 15, 1985.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on May 9, 1985.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

[FR Doc. 85-11791 Filed 5-15-85; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9134]

Southwest Sunsites, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require Porter Realty, Inc. and Irvin Porter, among other things, to cease, in connection with the advertising and sale of land, or the inducement of payments for land, representing that the purchase of any land is a sound financial investment; involves little monetary risk; is a way to achieve financial security; and will result in economic benefit to the purchaser stemming from an increase in the value of the land as a result of mineral rights, exploration, profitable resale or as a hedge against inflation. Respondents would be prohibited from representing that any land is currently usable as a homesite, farm or ranch, unless that land is immediately usable for cited purpose without any substantial improvement or development by the purchasers; and from mispresenting in any manner the cost of obtaining or the availability of electric power, telephone service, potable water, sewage disposal or any utility; and any interest in land by respondents or others. Respondents would be required to prepare a "Fact Sheet" containing specified information and to distribute a copy to all purchasers in a prescribed manner. Advertisements, promotional material and sales presentations would have to include statements warning that investment is risky and that prospective buyers should consult a qualified professional before purchasing; and that substantial expenditures may be necessary to make lots suitable for use. Contracts would have to contain a seven-day right-to-cancel provision and a disclosure that refunds will be made within 30 days after the seller receives a cancellation notice. Additionally, respondents would be required to provide consumers with cancellation forms; honor all valid cancellation requests; and make refunds in a timely manner. The order would further require that sales representatives receive a copy of the order; that respondents institute a

surveillance program designed to reveal those who fail to comply with the provisions of the order and discontinue dealing with any person who engages in any prohibited act or practice more than once.

DATE: Comments must be received on or before July 15, 1985.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Gary D. Kennedy, Dallas Regional Office, 8303 Elmbrook Dr., Dallas, TX 75247. (214) 729-7053.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Subh comments or views wil be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Land sales, Trade practices.

Commissioners: James C. Miller III, Chairman, Patricia P. Bailey, George W. Douglas, Terry Calvani, Mary L. Azcuenaga.

In the matter of Southwest Sunsites, Inc., Green Valley Acres, Inc., Green Valley Acres, Inc. II, Corporations, and Sydney Gross and Edwin Kritzler, individually and as officers or former officers of said corporations, Porter Realty, Inc., a corporation, and Irvin Porter, individually and as an officer or former officer of said corporation; Agreement Containing Consent Order To Cease and Desist.

The agreement herein, by and between Porter Realty, Inc., a corporation, by its duly authorized officer, and Irvin Porter, individually and as officer of said corporation, hereinafter referred to as said respondents, and the Federal Trade Commission, is entered into in accordance with the Commission's Rules governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent Porter Realty, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 717 Ponce de Leon Boulevard, in the city of Coral Gables, State of Florida.

Respondent Irvin Porter is an officer or former officer of respondent, Porter Realty, Inc. During all relevant times, respondent Porter formulated, directed, and controlled the policies, acts, and practices of said corporation, and his address is the same as that of said corporation.

2. Respondents have been served with a copy of the complaint issued by the Federal Trade Commission charging them with violation of section 5 of the Federal Trade Commission Act, as amended, and have filed answers to said complaint denying said charges.

3. Respondents admit all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondents waive:

(A) Any further procedural steps;

(B) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(C) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(D) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the complaint issued by the Commission.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may without further notice to said respondents, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to said respondent's address as stated in this agreement shall constitute service. Said respondents waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the order.

8. The relief set forth in the order herein fully satisfies any claim for consumer redress which the Commission may have under sections 5 and 19 of the Federal Trade Commission Act, as amended, against respondents arising out of the acts and practices alleged in the complaint. By its final acceptance of this agreement, with such modifications, if any, which the parties may make prior to such final acceptance, the Commission waives its right to commence a civil action under section 19 of the Federal Trade Commission Act, as amended, with respect to the acts and practices of said respondents alleged in the complaint.

9. Respondents have read the complaint and the order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Said respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

As used in this Order, the following definitions shall apply:

(A) "Respondents" means respondent Porter Realty, Inc., its successors and assigns, and its officers, directors, representatives and employees, or respondent Irvin Porter, or both, and any corporation, subsidiary, division, agent, or other device through which either corporate or individual respondent acts.

(B) "Seller" means one who owns and, directly or indirectly, sells, offers to sell, or advertises for sale any land.

(C) "Agent" means one who represents, or acts for or on behalf of, a seller in selling, offering to sell, or advertising for sale any land, but shall not include an attorney at law whose representation of another person

consists solely of rendering legal services.

(D) "Land," "property," or "lot" means any real property unimproved by a commercial or residential building sold, offered for sale, or advertised for sale by respondents, but shall not include any real property sold or offered for sale to a purchaser pursuant to a single contract for a sum in excess of $50,000.

(E) "Purchaser" or "buyer" means any individual who is a potential or actual vendee of the land offered for sale or sold by respondents.

(F) "Commission" means the Federal Trade Commission and/or its duly authorized representatives and employees.

(G) "Homesite" means any lot in which (1) potable water is available at a reasonable cost, (2) the lot is suitable for a septic tank or there is reasonable assurance that the lot can be served by a central sewage system, (3) the lot is legally accessible, and (4) the lot is free from periodic flooding.

I

It is ordered that respondent Porter Realty, Inc., a corporation, its successors and assigns, and its officers, representatives, and employees, and Irvin Porter, individually and as an officer or former officer of said corporation, directly or through any corporation, subsidiary, division, agent, or other device, in connection with the advertising, marketing, offering for sale, sale, or inducement of payments for land, in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, as amended, shall forthwith cease and desist from:

A. Representing, directly or by implication, through the use of any means, that:

1. The purchase of any land has been, is, or will be a good, profitable, short-term, safe, or sound financial investment;

2. There has been, is, or will be little or no financial risk involved in the purchase of any land;

3. The resale of any land is not or will not be difficult, or such land can be or has been resold within a certain time;

4. The purchase of any land is a way to achieve financial security or self-sufficiency, to deal with inflation, or to make money;

5. The value of, or demand for, any land has increased, is increasing, or will increase;

6. Purchasing any interest in land will result in any economic benefit to the purchaser, including but not limited to a benefit resulting from an increase in the value of the land from its use or development for any purpose, or as a result of mineral rights, exploration, or extraction; the land's profitable resale; the provision of a hedge against inflation; or the receipt of income or reduction of expenses from growing any crop, raising any animal, or any other source;

7. Any land is suitable for use as a homesite, farm, or ranch, for personal or commercial purposes;

unless such representation is not misleading and unless, at the time such representation is made, respondents possess and rely upon competent and reliable evidence which substantiates the representation, including, at a minimum, (a) data sufficient to demonstrate that the typical owner of such land is likely to achieve the results represented, and (b) where the representation predicts or projects future occurrences, evidence that would generally be accepted by the community of experts qualified to make such representations as providing a reasonable basis for the projection.

B. Failing to maintain evidence in support of and upon which respondents rely in making any representation about the value, suitability, or use of land, including evidence substantiating the representations described in Paragraph I.A., such evidence to be retained for three years from the date of respondents' last use of such representation and to be furinshed to the Commission upon request.

C. Representing, directly or by implication, through the use of any means, that any land is currently usable as a homesite, farm, or ranch, unless such land is immediately usable for such purpose without any substantial improvement or development by the purchaser.

D. Misrepresenting in any manner:

1. The cost of obtaining or availability of electric power, telephone service, potable water, sewage disposal, or any utility;

2. The past, present, planned, proposed, or potential purchase, use, or development of any interest in land by repondents or any other party;

3. The extent, location, value, nature, or significance of any actual or potential mineral right or resource or any activity related thereto.

II

It is further ordered that respondents, in connection with the advertising, marketing, offering for sale, or sale of land in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, as amended, shall:

A. Prepare a "Fact Sheet for Buyers" containing only such information as is set forth or referred to in Attachment A to this Order (incorporated herein by reference), and distribute to all purchasers a copy of the Fact Sheet in the following manner:

1. If respondents invite the purchaser by mail to attend a meeting sponsored by respondents, respondents shall include the Fact Sheet with the invitation;

2. If respondents arrange to meet with the purchaser in his or her home or other location, respondents shall mail the Fact Sheet to the purchaser, allowing sufficient time for the Fact Sheet to arrive at least two days prior to the meeting;

3. If the initial contact with the purchaser is in person (for example, at a booth located in a public place), respondents shall, after identifying briefly the purpose of the contact, give the Fact Sheet to the purchaser, request that he or she read it, and provide ample uninterrupted time for it to be read completely before continuing with any sales presentation;

4. If the initial contact is by telephone or the sale is to be completed entirely through the mail, the Fact Sheet shall accompany the initial mailing to the purchaser.

B. Refrain from misrepresenting any information in the Fact Sheet.

C. Refrain from making any representation, directly or by implication, through the use of any means, about:

1. The present, planned, proposed, or potential development, improvement, or facilities of the land or of the subdivision or project in which the land is located where such representation differs in any material respect from the information contained in the Fact Sheet or the Property Report required by the Interstate Land Sales Full Disclosure Act and related regulations, 15 U.S.C. 1701 to 1720 (1982); 24 CFR 1700.1 et seq. (1983);

2. The respondents' or purchasers' rights or obligations where such representation differs in any material respect from the parties' rights or obligations as stated in the contract, the Fact Sheet, or the Property Report required by the Interstate Land Sales Full Disclosure Act and related regulations.

D. Where respondents are sellers, honor any purchaser's request to rescind the contract and recover all payments thereunder at the purchaser's option, if respondents fail to distribute a copy of the Fact Sheet to such purchaser as required by Paragraph II.A., provided that the purchaser makes such request

within thirty days after receiving a copy of the Fact Sheet.

III

It is further ordered that where respondents are sellers, in connection with the advertising, marketing, offering for sale, or sale of land in or affecting commerce as commerce is defined in the Federal Trade Commission Act, as amended, they shall:

A. Disclose clearly and prominently in every written promotional material, magazine or newspaper advertisement greater than one-quarter page, and oral sales presentation the following statements:

1. THE FUTURE VALUE OF LAND IS UNCERTAIN. THESE LOTS ARE NOT BEING SOLD AS A FINANCIAL INVESTMENT. YOU SHOULD NOT COUNT ON YOUR LOT RISING IN VALUE OR YOUR BEING ABLE TO RESELL IT. DISCUSS ANY POSSIBLE PURCHASE WITH A QUALIFIED PROFESSIONAL.

2. THESE LOTS MAY BE SUITABLE FOR USE ONLY WITH SUBSTANTIAL EXPENDITURES FOR THE EXTENSION OF UTILITIES, WATER, AND OTHER NECESSITIES. THESE EXPENDITURES VARY DEPENDING ON THE LOCATION OF THE LOT AND COULD BE SO GREAT AS TO MAKE USE OF THE LAND IMPRACTICAL.

B. Disclose clearly and prominently in every radio advertisement, television advertisement, and magazine or newspaper advertisement of one-quarter page or less the following statement:

REMEMBER—BUYING LAND MAY BE RISKY. CONSULT A QUALIFIED PROFESSIONAL BEFORE BUYING.

C. Include clearly and prominently, immediately preceding the space provided for the purchaser's signature in each contract for the sale of land, the following statement in 12-point boldface type:

SEVEN DAY RIGHT TO CANCEL

YOU HAVE THE RIGHT TO CANCEL YOUR CONTRACT, WITHOUT ANY PENALTY OR OBLIGATION, AT ANY TIME UNTIL MIDNIGHT OF THE SEVENTH DAY AFTER YOU SIGN THIS CONTRACT. SEE THE ATTACHED "RIGHT OF CANCELLATION" FOR AN EXPLANATION OF THIS RIGHT.

IF YOU CHOOSE TO CANCEL WITHIN THIS TIME, ANY PAYMENT YOU MADE UNDER THIS CONTRACT WILL BE REFUNDED AND ANY DOCUMENT YOU SIGNED WILL BE CANCELLED AND RETURNED WITHIN THIRTY DAYS AFTER THE SELLER RECEIVES YOUR CANCELLATION NOTICE.

ATTENTION: ALTHOUGH YOU HAVE SEVEN DAYS IN WHICH TO RECONSIDER YOUR DECISION AND CANCEL THIS CONTRACT WITH FULL REFUND, WE RECOMMEND THAT, *BEFORE SIGNING*, YOU CONSIDER YOUR NEEDS CAREFULLY AND HAVE THIS CONTRACT AND THE ATTACHED NOTICE TO BUYERS REVIEWED BY A QUALIFIED PROFESSIONAL.

D. Furnish each purchaser, at or before the time the purchaser signs a contract for the sale of land, with two copies of a form, containing only such information as is set forth or referred to in Attachment B to this Order (incorporated herein by reference), captioned in 12-point boldface type, "RIGHT OF CANCELLATION," and with all other writing in 10-point boldface type.

Provided, however, that if respondents fail to distribute the "RIGHT OF CANCELLATION" forms as required by this paragraph, the period during which the purchaser may cancel the contract shall be extended until seven days after the purchaser receives said "RIGHT OF CANCELLATION."

Provided further that during the seven-day cancellation period after a purchaser's signing of a land purcahse contract, respondents shall not initiate any contact or communication, personal, telephonic, or otherwise, with such purchaser, but if respondents initiate any such contact, the period during which the purchaser may cancel the contract shall be extended until thirty days after the date of purchase.

E. Honor any signed and timely exercise of a "RIGHT OF CANCELLATION" (or its functional equivalent) by the purchaser, and within thirty business days after the receipt of such notice of cancellation, (a) refund all payments made under the contract, and (b) cancel and return any contract or other legal document executed by the purchaser.

F. Refrain from misrepresenting, soliciting, or obtaining any purchaser's assent to or otherwise imposing any condition, waiver, or limitation upon the right of a purchaser to cancel a transaction or receive a refund under any provision of this Order or by any applicable statute or regulation.

It is further ordered that respondents shall, within thirty days of a request by the Commission, Southwest Sunsites, Inc., Green Valley Acres, Inc., Green Valley Acres, Inc. II, Sydney Gross, or Edwin Kritzler, furnish to such requester a list of the names and last known addresses for each purchaser of land in the subdivisions known as Southwest Sunsites, Green Valley Acres, and Green Valley Acres II who bought such land through respondents, insofar as this information appears in files or records within respondents' custody and control.

Provided further that whenever it appears that an address supplied by respondents is not a purchaser's correct present address and whenever a subsequent request for such purchaser's present address is made by the Commission, Southwest Sunsites, Inc., Green Valley Acres, Inc., Green Valley Acres, Inc. II, Sydney Gross, or Edwin Kritzler, respondents shall, within ten days of such request, make all reasonable efforts, including contacting credit bureaus, telephone and utility companies, county land records, and purchasers' relatives or representatives whose addresses are in respondents' files, to obtain the correct present address of such purchaser and furnish it to the requester.

It is further ordered that respondents shall:

A. Forthwith deliver by certified mail or in person, a copy of this Order to all present and future sales representatives and other employees, independent brokers, advertising agencies, and others who sell or promote the sale of land or who otherwise have contact with the public on behalf of respondents in connection with the sale of land.

B. Provide each person described in Paragraph V.A. with a form, to be returned to respondents, clearly stating that person's intention to conform his or her sales practices to the requirements of this Order.

C. Inform each person described in Paragraph V.A. that respondents shall not use the services of any such person, unless such person agrees to and does file notice with respondents that her or she will conform his or her practices to the requirements of this Order.

D. In the event such person will not agree to so file notice with respondents and to conform his or her practices to the requirements of this Order, respondents shall not use the services of such person.

E. Inform the persons described in Paragraph V.A. that respondents are obligated by this Order to discontinue dealing with those persons who engage on their own in the acts or practices prohibited by this Order, or who fail to adhere to the affirmative requirements of this Order.

F. Institute a reasonable program of continuing surveillance adequate to reveal whether the practices of each person described in Paragraph V.A. conform to the requirements of this Order, and promptly investigate and make good faith efforts to resolve any

complaints about any such person received by respondents, and maintain records of any such complaint, investigation, and disposition of the complaint for ten years from the date of the complaint, such records to be furnished to the Commission upon request.

G. Discontinue dealing with any person described in Paragraph V.A. who more than once engages on his or her own in the acts or practices prohibited by this Order.

H. Forthwith deliver a copy of this Order to each of respondents' subsidiaries.

I. Notify the Commission at least thirty days prior to any proposed change in the corporate respondent, such as dissolution, assignment, reorganization, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other in the corporation that may affect compliance obligations arising out of this Order.

J. Within sixty days after service upon it of this Order and annually for three years thereafter, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Attachment A—Fact Sheet for Buyers

FACT SHEET CONCERNING: (insert name of subdivision)———————

NAMES OF SELLER/AGENT: (insert name of seller and agent)———————

EFFECTIVE DATE OF NOTICE: (insert date of notice)———————

Important

YOU ARE ADVISED THAT THE FUTURE VALUE OF LAND IS UNCERTAIN. THESE LOTS ARE NOT BEING SOLD AS A FINANCIAL INVESTMENT. YOU SHOULD NOT COUNT ON YOUR LOT RISING IN VALUE OR YOUR BEING ABLE TO RESELL IT. IF YOU OFFER YOUR LOT FOR SALE, YOU MAY FACE THE COMPETITION OF THE SELLER'S OWN SALES PROGRAM, WHICH MAY INVOLVE AN EXTENSIVE SALES CAMPAIGN. REAL ESTATE BROKERS ALSO MAY NOT BE INTERESTED IN SELLING YOUR LOT OR LISTING IT FOR SALE.

YOU ARE ALSO ADVISED THAT THESE LOTS MAY BE SUITABLE FOR USE ONLY WITH SUBSTANTIAL EXPENDITURES FOR THE EXTENSION OF UTILITIES, WATER, AND OTHER NECESSITIES. THESE EXPENDITURES VARY DEPENDING ON THE LOCATION OF THE LOT AND COULD BE SO GREAT AS TO MAKE USE OF THE LAND IMPRACTICAL.

AS OF THE DATE OF THIS FACT SHEET, THE SELLER HAS SOLD——— (insert number) LOTS IN———(insert name of subdivision).———(insert number) LOTS REMAIN UNSOLD AND AVAILABLE FOR SALE.

(In connection with any land for which federal property reports are *not* provided as required by the Interstate Land Sales Full Disclosure Act and related regulations, 15 U.S.C. 1701 to 1720 (1982), 24 CFR 1700.1 et seq. (1983), provide the following information:)

THIS FACT SHEET PROVIDES IMPORTANT INFORMATION ABOUT THE VALUE OF THESE LOTS AND THE AVAILABILITY AND ESTIMATED COSTS TO YOU OF UTILITIES, WATER, AND OTHER NECESSITIES.

Water

(Provide the following information regarding water services:

(a) The method of water service to be used:

(b) If individual wells are to be used: whether the seller is responsible for installing such wells; whether evidence exists thast water can be found under every lot offered for sale; the estimated depth at which water can be found in the applicable area; the estimated cost of drilling a well for household purposes and for agricultural purposes if agricultural use is feasible; and whether and under what conditions a refund or exchange will be offered in the event a productive well cannot be installed;

(c) If water is to be provided by a central system: who is responsible for constructing such a system; the estimated amount of any construction costs or any connection or use fees to be paid by the purchaser, including the estimated cost of installing water mains to either the most remote lot in the subdivision or the lot the prospective purchaser is considering purchasing; the estimated service availability date of the water system; and, if the seller is responsible for constructing the system, whether a separate account or fund has been established to finance such construction and the extent of construction completed as of the date of the Fact Sheet.)

Sewer Service

(Provide the following information about sewer service:

(a) The method of sewage disposal to be used;

(b) If sewage disposal is to be by septic tank or other individual system: whether the seller is responsible for installing the system; the estimated cot of the system; whether a permit is required for such a system; and whether and under what conditions a refund or exchange will be offered if the purchaser is unable to install a septic tank or other on-site sewage system;

(c) If sewage disposal is to be by a central treatment and collection system: who is responsible for constructing such a system; the estimated amount of any construction costs or any connection or use fees to be paid by the purchaser; the estimated service availability date of the system; and, if the seller is responsible for constructing the system, whether a separate account or fund has been established to finance such construction and the extent of construction completed as of the date of the Fact Sheet.)

Electric Service

(Provide the following information about electric service:

(a) Whether primary service lines have extended in front of, or adjacent to, each lot;

(b) If not, the utility company's policy and charges for extension of primary lines, and the estimated cost for extending primary service to either the most remote lot in the subdivision or the specific lot the prospective purchaser is considering purchasing.)

Telephone Service

(Provide the following information about telephone service:

(a) Whether primary service lines have been extended in front of, or adjacent to, each lot;

(b) If not, the utility company's policy and charges for extension of primary lines, and the estimated cost for extending primary service to either the most remote lot in the subdivision or the specific lot the prospective purchaser is considering purchasing.)

IMPORTANT: BEFORE SIGNING ANY DOCUMENT, OBTAIN AND READ THOROUGHLY THE CONTRACT AND THIS FACT SHEET. IT IS DESIRABLE TO HAVE A QUALIFIED PROFESSIONAL EVALUATE THE TERMS OR MERITS OF THIS PURCHASE *BEFORE* YOU SIGN ANYTHING.

(In connection with any land for which federal property reports *are* provided as required by the Interstate Land Sales Full Disclosure Act and related regulations, 15 U.S.C. 1701 to 1720 (1982), 24 CFR 1700.1 et seq. (1983), provide the following information:)

IMPORTANT: BEFORE SIGNING ANY DOCUMENT, OBTAIN AND READ THOROUGHLY EACH PROPERTY REPORT AND CONTRACT. THE

PROPERTY REPORT CONTAINS ADDITIONAL INFORMATION THAT YOU SHOULD KNOW AND UNDERSTAND BEFORE YOU SIGN A CONTRACT TO BUY THIS LAND. IT IS DESIRABLE TO HAVE A QUALIFIED PROFESSIONAL EVALUATE THE TERMS OR MERITS OF THIS PURCHASE *BEFORE* YOU SIGN ANYTHING.

Attachment B—Right of Cancellation (insert date purchaser signed the contract) Date of Transaction (insert lot identification information) Lot Identification

YOU HAVE THE RIGHT TO CANCEL YOUR CONTRACT, WITHOUT ANY PENALTY OR OBLIGATION, AT ANY TIME UNTIL MIDNIGHT OF THE SEVENTH DAY AFTER YOU SIGN THE CONTRACT. YOU SHOULD USE THIS TIME TO EXAMINE WITH CARE THIS CONTRACT AND THE FACT SHEET OR PROPERTY REPORT. WE ALSO RECOMMEND THAT YOU HAVE THIS CONTRACT AND OTHER INFORMATION ABOUT THE PROPERTY REVIEWED BY A QUALIFIED PROFESSIONAL.

NO REPRESENTATIVE OF THE SELLER SHOULD CONTACT YOU IN ANY WAY DURING THIS SEVEN DAY PERIOD. IF, HOWEVER, THE SELLER OR ITS REPRESENTATIVE CONTACTS YOU DURING THIS SEVEN-DAY PERIOD, YOU MAY CANCEL THE PURCHASE BY NOTIFYING THE SELLER BY MIDNIGHT OF THE THIRTIETH DAY AFTER THE DATE OF PURCHASE.

IF YOU CANCEL WITHIN THIS TIME, ANY PAYMENTS YOU MADE UNDER THE CONTRACT WILL BE REFUNDED AND ANY DOCUMENT YOU SIGNED WILL BE CANCELLED AND RETURNED WITHIN THIRTY DAYS AFTER THE SELLER RECEIVES YOUR CANCELLATION NOTICE.

TO CANCEL THE TRANSACTION, MAIL OR DELIVER A SIGNED COPY OF THIS CANCELLATION NOTICE, OR ANY OTHER WRITTEN NOTICE OR TELEGRAM STATING YOU ARE EXERCISING YOUR RIGHT TO CANCEL, TO (insert name of seller), AT (insert address of seller's place of business) POSTMARKED (if mailed) OR FILED FOR TRANSMISSION (if telegraphed) NOT LATER THAN MIDNIGHT OF (insert date not earlier than the seventh day following the date the purchaser signed the contract).

I (WE) HEREBY CANCEL THIS TRANSACTION. (EACH BUYER MUST SIGN THIS NOTICE.)

(Date)_____

(Buyer's signature) _____

(Buyer's signature) _____

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Porter Realty, Inc. and Irvin Porter.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The administrative complaint alleges that respondents violated section 5 of the Federal Trade Commission Act by engaging in false, misleading, deceptive, and unfair advertising and sales practices in connection with the sale of subdivided parcels of rural, undeveloped land located in West Texas. It is alleged that respondents misrepresented and failed to disclose material facts regarding the investment value and usability of the land for homesites, farms or ranches.

The first part of the proposed order contains definitions of terms used throughout the agreement. Paragraph I of the order contains provisions requiring the cessation of certain representations concerning investment and resale potential; lack of financial risk; demand for and supply of the land; and future growth and development unless, at the time a representation is made, the statement is not misleading and respondents possess and rely upon data substantiating the representation. Paragraph I also prohibits respondents from representing that any land is currently usable as a homesite, farm or ranch unless the land is immediately usable for such purpose without substantial improvement. In addition, Paragraph I prohibits respondents from misrepresenting the cost of obtaining or the availability of utilities; the purchase, use or development of any interest in land by respondents or any other party; and the extent, location, value, nature or significance of any mineral rights or resource or any activity related thereto.

Paragraph II of the proposed order requires respondents to distribute a "Fact Sheet for Buyers" ("Fact Sheet") to all purchasers. The Fact Sheet states that the future value of land is uncertain and resale may be difficult and that substantial expenditures may be necessary in order to use the land as homesites, farms or ranches. This paragraph also prohibits respondents from making representations about the land or the subdivision in which the land is located which differ in any material respect from the Fact Sheet or the Property Report required by the Interstate Land Sales Full Disclosure Act. In addition, Paragraph II prohibits respondents from making representations about respondents' or purchasers' rights or obligations which differ in any material respect from the parties' rights or obligations as stated in the contract, Fact Sheet or the Property Report required by the Interstate Land Sales Full Disclosure Act. This paragraph further provides that when respondents are sellers, any requests to rescind the contract must be honored if the respondents failed to provide the Fact, Sheet, as required by the order.

Paragraph III of the proposed order requires respondents to disclose in sales and promotional materials, printed advertisements that are greater than one-quarter page, and oral sales presentations that the future value of land is uncertain; that any possible purchase should be discussed with a qualified professional; and that large expenditures may be necessary to make the lots suitable for use. Radio advertisements and printed advertisements of one-quarter page or less must disclose that buying land is risky and a qualified professional should be consulted before buying. This paragraph also provides for a post-purchase cancellation period, requires respondents to provide each purchaser a right of cancellation form, and prohibits respondents from contacting the purchaser during the period in which the purchaser may cancel the contract. In addition, Paragraph III requires respondents to honor signed and timely cancellation notices. Further, Paragraph III prohibits respondents from misrepresenting or limiting a purchaser's right to cancel a transaction or receive a refund under the order or applicable law.

Paragraph IV of the proposed order requires respondents to furnish the Commission and the subdivider respondents (Southwest Sunsites, Inc., Green Valley Acres, Inc., Green Valley Acres, Inc. II, Sydney Gross, and Edwin Kritzler), upon request, a list of the names and addresses of all individuals who purchased land through respondents, insofar as this information appears in files or records within respondents' custody or control.

Paragraph V of the proposed order requires respondents to provide all of their sales representatives, employees, independent brokers, and advertising agencies with copies of the order and to institute certain procedures to discover

and remedy any violations of the order provisions. This paragraph also requires respondents to deliver copies of the order to each of their subsidiaries and to notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent which may affect compliance obligations arising out of the order. In addition, Paragraph V requires respondents to provide the Commission proof of compliance with the order within sixty (60) days after service of the order and annually for three years thereafter.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 85-11810 Filed 5-15-85; 8:45 am]

BILLING CODE 6710-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1309

[Docket No. 82-18; Notice 7]

Incentive Grant Criteria for Alcohol Traffic Safety Programs; Amendment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking; amendment.

SUMMARY: This document proposes to amend the regulation which established a grant program to encourage States to adopt effective programs to reduce crashes resulting from persons driving while under the influence of alcohol. This effort is undertaken pursuant to Pub. L. 98-363, which modified the alcohol traffic safety incentive grant program by expanding the scope of the legislation to include not only programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol but also from driving while under the influence of a controlled substance. It specifically amends the alcohol traffic safety incentive grant program by (1) including drugged driving rehabilitation and treatment programs or drugged driving detection research programs as one of the criteria from which a State can select in order to qualify for a supplemental incentive grant and (2) encouraging States to enact laws specifying minimum sentencing standards for persons convicted of drunk driving by establishing a special grant.

DATES: All written comments must be received on or before June 17, 1985.

ADDRESSES: Written comments should refer to the docket number and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (Docket hours are 8 a.m. to 4 p.m.).

FOR FURTHER INFORMATION CONTACT: Mr. George Reagle, Associate Administrator for Traffic Safety Programs, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-0837).

SUPPLEMENTARY INFORMATION: On July 17, 1984, the President signed into law a bill (Pub. L. 98-363) which amends the Incentive Grant Criteria for Alcohol Traffic Safety Programs (23 U.S.C. 408). The original statute established a two tier grant system as an incentive for States to implement effective programs to reduce the drunk driving problem. The first tier is a basic grant in the amount of 30 percent of each State's fiscal year 1983 apportionment under section 402 of the Highway Safety Act, 23 U.S.C. 402. A State is eligible for the basic grant if it meets four criteria specified in the Act. The second tier is a supplemental grant up to an additional 20 percent of the amount apportioned to a State under the Highway Safety Act. A State is eligible for the supplemental grant if it qualifies for the basic grant and implements its choice of eight additional alcohol traffic safety program elements from a list of 21 such elements specified in 23 CFR Part 1309.

Pub. L. 98-363 modifies that grant program by expanding the scope of the legislation to include not only drunk driving but also drugged driving and by encouraging States to enact minimum sentencing standards for persons convicted of drunk driving. This rulemaking action is undertaken to implement these provisions of the new legislation.

Drugged Driving

In the original legislation, Congress instructed the agency to establish criteria with which a State would have to comply in order to be eligible for a supplemental grant. Congress did not mandate what those criteria should include but instead suggested several criteria that the agency could require. In amending the original ligislation, Congress has added to the suggested list one additional criterion: The establishment and operation of rehabilitation and treatment programs for persons arrested and convicted of driving under the influence of controlled substances or the establishment or research programs to develop effective means of detecting the use of controlled substances by drivers.

The legislation uses the phrase "controlled substance," which is defined in section 802 of the Controlled Substances Act (21 U.S.C. 802). However, for the sake of brevity, this notice will use the word "drug" to mean a "controlled substance".

Currently, the regulation implementing 23 U.S.C. 408 contains no provisions for allowing States to become eligible for a basic or supplemental grant on the basis of drugged driving programs which they might conduct. To date research has shown that drugs may be potential highway safety hazards. Studies have shown that certain drugs such as marijuana and tranquilizers have been found in the bloodstreams of fatally injured and injured drivers. In addition, some laboratory data on the effect of drugs on driving are available which show decreased performance on driver-related tasks. However, further research is needed to develop a simple, reliable and effective method of detecting drug use by drivers and to determine whether a threshold level of drug use can be established as the accepted level at which driving impairment occurs—similar to the widely accepted Blood Alcohol Concentration (BAC) of 0.10 percent used in most State drunk driving laws. In light of the research conducted to date and in light of Congress' concern that these programs be included, the agency is proposing to adopt the language in Pub. L. 98-363 as an additional criterion from which a State may choose in order to qualify for a supplemental grant.

Minimum Sentencing

Pub. L. 98-363 also modifies the grant program by adding a special grant for which a State can qualify if it enacts laws specifying tough minimum sentencing standards for persons convicted of drunk driving. The minimum requirements for such laws are as follows: First offenders must have their licenses suspended for 90 days and either be imprisoned for 48 hours or perform 180 hours of community service; second offenders, within a five year period, must have their licenses revoked for one year and be imprisoned for ten days; third offenders, within a five year period, must have their licenses suspended for three years and be imprisoned for 120 days; and persons driving in violation of any license restrictions that were imposed as a result of convictions for DWI (including

suspensions or revocations) must be imprisoned for 30 days and, upon release, receive an additional period of license suspension or revocation.

The statute specifies that the amount of the special grant shall not exceed five percent of the amount apportioned to the State for fiscal year 1984 under sections 402 and 408 of Title 23. The agency is proposing to provide grants only at the full five percent level for those States that meet all of the minimum sentencing requirements. As with the basic and supplemental grants, a State would be eligible for a special grant for up to three fiscal years. However, unlike the supplemental grant, a State can become eligible for a special grant without being eligible for the basic grant.

The purpose of the Act is to encourage the States to adopt and implement effective programs to reduce traffic safety problems resulting from driving while under the influence of alcohol or a controlled substance. In enacting the original law, Congress made the judgment that certain licensing and criminal sanctions were so essential that each State must satisfy those criteria in order to receive a basic grant.

The legislation provides that a State must adopt and implement specific penalties for persons convicted of "driving under the influence of alcohol." The language "driving under the influence of alcohol" was evidently adopted from the report issued by the Presidential Commission on Drunk Driving and there is no legislative history which defines the phrase. In the proposed regulation, we have substituted the language "driving while intoxicated" for "driving under the influence of alcohol."

A review of the Act and its legislative history shows that Congress intended both the licensing and criminal sanctions to be applied against persons who were driving with a BAC of 0.10 percent or greater. It is, therefore, the opinion of the agency that Congress also intended that the minimum sentencing provisions be based on a BAC of 0.10 percent. An interpretation allowing for a State-established BAC of over 0.10 percent would result in the anomaly of creating a special grant for minimum sentencing requirements that is weaker than the sentencing requirements found in the basic grant provisions.

Additionally, while most States have "driving under the influence" statutes and do not use the term "driving while intoxicated", a few States consider driving under the influence a separate and lesser offense. Because of the possible confusion over the use of this phrase, the agency proposes to substitute the phrase "driving while intoxicated". This term was discussed in the previous rulemaking action and it was determined that "driving while intoxicated" should be based on a 0.10 BAC. However, we are specifically requesting comments on retaining the phrase "driving under the influence" and letting States apply it to any BAC level provided that level is not greater than 0.10.

The sentencing provisions require license "suspensions" and "revocations" of varying lengths of time. Generally, the word "suspension" implies a temporary debarring of driving privileges while "revocation" implies a permanent debarring of driving privileges. The agency believes that it is the length of the debarment period that is important and not whether the debarment is temporary or permanent. Therefore, it is proposing to retain the definitions of "suspension" found in section 1309.3 of the current regulation except that "revocation" may be used interchangeably with "suspension". As noted in the definition, restricted, provisional or conditional licenses are allowed the last 60 days of a suspension for a first offense. However, no restricted, provisional or conditional licenses are allowed from convictions for second or subsequent offenses.

The sentencing provisions also require imprisonment for varying lengths of time. The agency is proposing that the definition of "imprisonment" for the special grant be the same as for the basic grant. In addition, the legislation specifies that the term of imprisonment be 48 consecutive hours for those convicted of first offenses, however, it does not specify whether the other terms of imprisonment be for consecutive days. The agency is, therefore, proposing that the term of imprisonment for second offenders, which is specified as ten days, be served is no less than 48 consecutive hour segments within a 90 day period from conviction. This definition will satisfy the following concerns: The length of each consecutive segment of imprisonment should be no less than that imposed on first offenders; flexibility for rehabilitation and treatment programs is provided if treatment periods are spaced out over a period of time rather than compressed into the ten days; the imprisonment should not extend beyond 90 days from sentencing because of losing the deterrent effect of swiftness of punishment; and allowing the imprisonment to be spread over a longer period of time than ten days will accommodate those communities where jail space is inadequate.

While the agency is not proposing a consecutive period of imprisonment for second offenders, it is proposing such for third and subsequent offenders and for those convicted of driving with a suspended or revoked license or in violation of a restriction due to driving while intoxicated. The agency believes that the seriousness of these offenses warrant the stiffer penalties proposed. Consequently, the language of the proposed regulation incorporates the word "consecutive" into the description of the terms of imprisonment for these offenses.

Additionally, the provision for performing community service as an alternative to imprisonment for first offenders does not specify the period of time within which that service must be completed. The agency is proposing to require that such service be completed within three months and has incorporated this interpretation into the proposed regulation.

General Requirements

The general requirements and the certification and award procedures will remain the same as those established for the basic and supplemental grants. Each State is to provide information to document and verify its eligibility for the special grant. Upon review by NHTSA, the State will be notified that it is or is not eligible for the grant award based upon the documentation submitted. If eligible for a grant award, the State would also be advised of the amount of the grant to be awarded subject to receipt and NHTSA formal approval of the State's Alcohol Highway Safety Plan. Upon receipt and subsequent approval of the Plan, the grant will be awarded by execution of a Federal-Aid Agreement.

Paperwork Reduction

Information proposed to be provided by the States to determine State eligibility for a grant is considered to be an information collection requirement, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320. Accordingly, these proposed requirements are being submitted to the OMB for its approval, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). A notice will be published in the Federal Register when OMB approves this information collection.

Comments on the proposed information collection requirement should be addressed to: Office of Information and Regulatory Affairs, OMB, Washington, D.C. 20503, Attention: Desk Officer for Department

of Transportation. Copies of these comments should also be sent to Docket 82–18; Notice 7 at the address shown at the front of this notice.

Procedures for Commenting on Proposal

Interested persons are invited to submit written comments on this proposal. It is requested but not required that 10 copies be submitted. Comments should not exceed 15 pages in length (*See* 49 CFR 553.21). Necessary attachments may be added to these submissions without regard to the 15-page limitation. This limitation is intended to encourage commenters to detail their primary arguments in a concise manner.

All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the above address before and after that date.

To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. NHTSA will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Copies of all written statements and comments will be placed in Docket 82–18; Notice 7 of the NHTSA Docket Section in Room 5109, Nassif Building, 400 Seventh Street, SW., Washington D.C. 20590.

The agency has determined that this rulemaking should be classified as nonsignificant under the Department's regulatory policies and procedures. The agency is merely implementing an Act of Congress. The agency has determined that since this rule will not have an annual impact of $100 million on the economy, it is not a major rule within the meaning of Executive Order 12291. The impact is so minimal that preparation of a full preliminary regulatory evaluation is not required.

Regulatory Flexibility Act

I hereby certify that the requirements that will be established by this rulemaking action will not have a significant economic impact on a substantial number of small entities because the States will be the recipients of any funds awarded under the regulation and, therefore, preparation of an Initial Flexibility Analysis is not necessary.

List of Subjects in 23 CFR Part 1309

Alcohol, Drugs, Grant programs, Transportation, Highway safety.

In consideration of the foregoing, Part 1309 of Title 23 of the Code of Federal Regulations is revised to read as follows:

PART 1309—INCENTIVE GRANT CRITERIA FOR ALCOHOL TRAFFIC SAFETY PROGRAMS

Sec.

1309.1 Scope.
1309.2 Purpose.
1309.3 Definitions.
1309.4 General requirements.
1309.5 Requirements for a basic grant.
1309.6 Requirements for supplemental grant.
1309.7 Award of procedures.

Authority: 23 U.S.C. 408 delegation of authority at 49 CFR 1.50.

§ 1309.1 Scope.

This part establishes criteria, in accordance with 23 U.S.C. 408, for awarding incentive grants to States that implement effective programs to reduce drunk driving and driving under the influence of a controlled substance.

§ 1309.2 Purpose.

The purpose of this part is to encourage States who have adopt or do adopted and implement alcohol traffic safety programs by legislation or regulations which will significantly reduce crashes resulting from persons driving while under the influence of alcohol or controlled substances. The criteria established are intended to ensure that the State alcohol traffic safety programs for which incentive grants are awarded meet or exceed minimum levels designed to reduce drunk driving, or driving under the influence of a controlled substance.

§ 1309.3 Definitions.

(a) "Controlled substance" has the meaning given such term in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6));

(b) "Driving while intoxicated" means operating or being in actual physical control of a vehicle while the alcohol concentration in the blood or breath is 0.10 or more grams of alcohol per 100 milliliters of blood or 0.10 or more grams of alcohol per 210 liters of breath, as determined by chemical or other tests.

(c) "Imprisonment" means confinement in a jail, minimum security facility or in-patient rehabilitation or treatment center.

(d) "Prompt" means that the overall average time from arrest to suspension of a driver's license either cannot exceed an average of 45 days or cannot exceed an average of 90 days and a State submit a plan showing how it intends to achieve a 45 day average.

(e) "Repeat offender" means any person convicted of an alcohol-related traffic offense more than once in five years.

(f) "Suspension" or "revocation" means:

(1) for first offenses, the temporary debarring of all driving privileges for a minimum of 30 days and then the use for a minimum 60 days of a restricted, provisional or conditional license permitting a person to drive only for the purposes of going from a residence to or from a place of employment or to and from a mandated alcohol education or treatment program. A restricted, provisional or conditional license can only be issued in accordance with Statewide published guidelines and in exceptional circumstances specific to the offender.

(2) For refusal to take a chemical test, first offense, the temporary debarring of all driving privileges for 90 days.

(3) For second and subsequent offenses, including the refusal to take a chemical test, the temporary debarring of all driving privileges for one year or longer, subject to the requirements of § 1309.5, or § 1309.7 as appropriate.

§ 1309.4 General requirements.

(a) *Certification Requirements.* To qualify for a grant under 23 U.S.C. 408, a State must, for each year it seeks to qualify:

(1) Meet the requirements of § 1309.7 and/or § 1309.5 and, if applicable, the requirements of § 1309.6

(2) Submit a certification to the Director, Office of Alcohol Countermeasures, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590 that: (i) It has an alcohol traffic safety program that meets those requirements. If the certification is based upon prior adoption of a criterion, a State must provide information showing that it has been actively implementing that criterion during the four years prior to application for a grant, (iii) it will use the funds awarded under 23 U.S.C. 408 only for the implementation and enforcement of alcohol traffic safety programs, and (iii) it will maintain its aggregate expenditures from all other sources for its existing alcohol traffic safety programs at or above the average level of such expenditures in fiscal years 1981 and 1982 (either State or Federal

fiscal year 1981 and 1982 can be used); and

(3) After being informed by NHTSA that it is eligible for a grant, submit, within 120 days, to the agency an alcohol safety plan for one, two or three years, as applicable, that describes the programs the State is and will be implementing in order to be eligible for the grants and provides the necessary information, identified in § 1309.5 and § 1309.6, to demonstrate that the programs comply with the applicable criteria. The plan must also describe how the specific supplemental criteria adopted by a State are related to the State's overall alcohol traffic safety program.

(b) *Limitations on Grants.* A State may receive a grant for up to three fiscal years subject to the following limitations:

(1) The amount received as a basic grant shall not exceed 30 percent of a State's 23 U.S.C. 402 apportionment for fiscal year 1983.

(2) The amount received as a supplemental grant shall not exceed 20 percent of a State's 23 U.S.C. 402 apportionment for fiscal year 1983.

(3) The amount received as a special grant shall not exceed 5 percent of a State's 23 U.S.C. 402 and 408 apportionment for fiscal year 1984.

(4) In the first fiscal year the State receives a basic or supplemental grant, it shall be reimbursed for up to 75 percent of the cost of its alcohol traffic safety program adopted pursuant to 23 U.S.C. 408;

(5) In the second fiscal year the State receives a basic or supplemental grant, it shall be reimbursed for up to 50 percent of the cost of its alcohol traffic safety program adopted pursuant to 23 U.S.C 408; and

(6) In the third fiscal year the State receives a basic or supplemental grant, it shall be reimbursed for up to 25 percent of the cost of its alcohol traffic safety program adopted pursuant to 23 U.S.C 408.

§ 1309.5 Requirements for a basic grant.

To qualify for a basic incentive grant of 30 percent of its 23 U.S.C. 402 apportionment for fiscal year 1983, a State must have in place and implement or adopt and implement the following requirements:

(a)(1) The prompt suspension, for a period not less than 90 days in the case of a first offender and not less than one year in the case of a repeat offender, of the driver's license of any individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related traffic offense, and (i) to whom is administered one or more chemical tests to determine whether the individual was intoxicated while operating the motor vehicle and who is determined, as a result of such tests, to be intoxicated, or (ii) who refuses to submit to such a test as proposed by the officer.

(2) To demonstrate compliance, a State shall submit a copy of the law or regulation implementing the mandatory license suspension, information on the number of licenses suspended, the length of the suspension for first-time and repeat offenders and for refusals to take chemical tests and the average number of days it took to suspend the licenses from date of arrest. A State can provide the necessary data based on a statistically valid sample.

(b)(1) A mandatory sentence, which shall not be subject to suspension or probation, of imprisonment for not less than 48 consecutive hours, or not less than 10 days of community service for any person convicted of driving while intoxicated more than once in any five year period.

(2) To demonstrate compliance a State shall submit a copy of its law adopting this requirement and data on the number of people convicted of DWI more than once in any five years, what general types of confinement are being used, and the sentences for those persons. A State can provide the necessary data based on a statistically valid sample.

(c)(1) Provide that any person with a blood alcohol concentration of 0.10 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

(2) To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(d)(1) Increased efforts or resources dedicated to the enforcement of alcohol-related traffic laws and increased efforts to inform the public of such enforcement.

(2) To demonstrate compliance, a State shall submit data showing that it has increased its enforcement and public information efforts.

§ 1309.6 Requirements for a supplemental grant.

(a) to qualify for a supplemental grant of 20 percent of its 23 U.S.C. 402 apportionment for fiscal year 1983, a State must have in place and implement or adopt and implement a license suspension system in which the average time from date of arrest to suspension of a license does not exceed an average of 45 days, and

(b) have in place and implement or adopt and implement eight of the following twenty-two requirements:

(1) Enactment of a law that raises, either immediately or over a period of three years, the minimum age for drinking any alcoholic beverages to 21. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(2) Coordination of State alcohol highway safety programs. To demonstrate compliance, a State shall submit information explaining how the work of the different State agencies involved in alcohol traffic safety programs is coordinated.

(3) Rehabilitation and treatment programs for persons arrested and convicted of alcohol-related traffic offenses. To demonstrate compliance, a State shall submit a copy of its law or regulation adopting this requirement, and a copy of the minimum standards set for rehabilitation and treatment programs by the State.

(4) Establishment of State Task Forces of governmental and non-governmental leaders to increase awareness of the problem, to apply more effectively drunk driving laws and to involve governmental and private sector leaders in programs attacking the drunk driving problem. To demonstrate compliance a State shall submit a copy of the executive order, regulation, or law setting up the task force and a description of how the interests of local communities are represented on the task force.

(5) A Statewide driver record system readily accessible to the courts and the public which can identify drivers repeatedly convicted of drunk driving. Conviction information must be recorded in the system within 30 days of a conviction, license sanction or the completion of the appeals process. Information in the record system must be retained for at least five years. The public shall have access to those portions of a driver's record that are not protected by Federal or State confidentiality or privacy regulations. To demonstrate compliance, a State shall submit a description of its record system discussing its accessibility to prosecutors, the courts and the public and providing data showing that the time required to enter alcohol-related convictions into the system is not greater than 30 days. A State shall also submit information showing that the data is retained in the system for at least 5 years.

(6) Establishment in each major political subdivision of a locally coordinated alcohol traffic safety

program, which involves enforcement, adjudication, licensing, public information, education, prevention, rehabilitation and treatment and management and program evaluation. In small States, local coordination may be demonstrated by showing that the interests of the local communities are recognized and coordinated by the State program. To demonstrate compliance, a State shall submit a description of the number of programs, type of programs and percentage of the State population covered by such local programs.

(7) Prevention and long-term education programs on drunk driving. To demonstrate compliance, a State shall submit a description of its prevention and education program, discussing how it is related to changing societal attitudes and norms against drunk driving with particular attention to the implementation of a comprehensive youth alcohol traffic safety program, and the involvement of private sector groups and parents.

(8) Authorization for courts to conduct pre- or post-sentence screenings of convicted drunk drivers. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement and a brief description of its screening process.

(9) Development and implementation of State-wide evaluation system to assure program quality and effectiveness. To demonstrate compliance, a State shall provide a copy of the executive order, regulation or law setting up the evaluation program and a copy of the evaluation plan.

(10) Establishment of a plan for achieving self-sufficiency for the State's total alcohol traffic safety program. To demonstrate compliance, a State shall provide a copy of the plan. Specific progress toward achieving financial self-sufficiency must be shown in subsequent years.

(11) Use of roadside sobriety checks as part of a comprehensive alcohol safety enforcement program. To demonstrate compliance, a State shall submit information showing that it is systematically using roadside sobriety checks. In addition, a State shall provide a copy of its regulation or policy authorizing the use of roadside checks.

(12) Establishment of programs to encourage citizen reporting of alcohol-related traffic offenses to the police. To demonstrate compliance, a State shall submit a copy of its citizen reporting guidelines or policy and data on the degree of citizen participation, e.g., number of citizen reports and the number of related arrests. A State can provide the necessary data based on a statistically valid sample.

(13) Establishment of a 0.08 percent blood alcohol concentration as presumptive evidence of driving while under the influence of alcohol. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(14) Adoption of a one-license/one-record policy. In addition, the State shall fully participate in the National Driver Register and the Driver License Compact. To demonstrate compliance, a State shall submit a copy of the order, regulation or law showing the State is a member of the Driver License Compact and has adopted a one-license/one-record policy, and is participating in the National Driver Register.

(15) Authorization for the use of a preliminary breath test where there is probable cause to suspect a driver is impaired. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(16) Limitations on plea-bargaining in alcohol-related offenses. To demonstrate compliance, a State shall submit a copy of its law or court guidelines requiring that no alcohol-related charge be reduced to a non-alcohol-related charge or probation without judgment be entered without a written declaration of why the action is in the interest of justice. If a charge is reduced, the defendant's driving record must reflect that the reduced charge is alcohol-related.

(17) Provide victim assistance and victim restitution programs and require the use of a victim impact statement prior to sentencing in all cases where death or serious injury results from an alcohol-related traffic offense. To demonstrate compliance, a State shall submit a description of its victim assistance and restitution programs, and its use of victim impact statements.

(18) Mandatory impoundment or confiscation of license plate/tags of any vehicle operated by an individual whose license has been suspended or revoked for an alcohol-related offense. Any such impoundment or confiscation shall be subject to the lien or ownership right of third parties without actual knowlege of the suspension or revocation. To demonstrate compliance a State shall submit a copy of its law adopting this requirement.

(19) Enactment of legislation or regulations authorizing the arresting officer to determine the type of chemical test to be used to measure intoxication and to authorize the arresting officer to require more than one chemical test. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(20) Establishment of liability against any person who serves alcoholic beverages to an individual who is visibly intoxicated. To demonstrate compliance, a State shall submit a copy of the law or court decision of a State's highest court establishing that liability.

(21) Use of innovative programs. To demonstrate compliance a State shall submit a description of its program and an explanation showing that the program will be as effective as any of the programs adopted to comply with the other supplemental criteria.

(22) Rehabilitation and treatment programs for those arrested and convicted of driving under the influence of a controlled substance or research programs to develop effective means of detecting use of controlled substances by drivers. To demonstrate compliance with the rehabilitation and treatment portion of this criterion, a State shall submit a copy of its law or regulation adopting the requirement and a copy of the minimum standards set for these programs by the State. To demonstrate compliance with the research portion of this criterion, a State shall submit a description of its drugged driving research program and the research plan.

(c) To qualify for a supplemental grant of 10 percent of its 23 U.S.C. 402 apportionment for fiscal year 1983, a State must (1) Have in place and implement or adopt and implement a license suspension system in which the average time from date of arrest to suspension of a license does not exceed 45 days; and (2) have in place and implement or adopt and implement four of the twenty-two requirements specified in section (b).

(d) To qualify for a supplemental grant for a second and a third year, a State must:

(1) Show that it has increased its performance for each of the requirements it adopted in the prior year, and

(2) Adopt two more requirements from section (b) for each subsequent year, except that a State does not have to implement more than a total of fifteen criteria.

§ 1309.7 Requirements for a special grant.

To qualify for a special grant of five precent of its 23 U.S.C. 402 and 408 apportionment for fiscal year 1984, a State must have in place and implement or adopt and implement a statute which provides that:

(a) Any person convicted of a first violation of driving while intoxicated shall receive:

(1) A mandatory license suspension for a period of not less than ninety days; and

(2)(i) An assignment of one hundred hours of community service to be completed within three months; or

(ii) A mandatory minimum sentence of imprisonment for forty-eight consecutive hours;

(b) Any person convicted of a second violation of driving while intoxicated within five years after a conviction for the same offense shall receive:

(1) A mandatory minimum sentence of imprisonment for ten days to be served in no less than 48 consecutive hour segments within a ninety day period from conviction; and

(2) A mandatory license revocation for not less than one year;

(c) Any person convicted of a third or subsequent violation of driving while intoxicated within five years after a prior conviction for the same offense shall receive:

(1) A mandatory minimum sentence of imprisonment for one hundred and twenty consecutive days; and

(2) A mandatory license revocation of not less than three years; and

(d) Any person convicted of driving with a suspended or revoked license or in violation of a restriction due to driving while intoxicated conviction shall receive:

(1) A mandatory sentence of imprisonment for thirty consecutive days; and

(2) Upon release from imprisonment, and additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of ther offense of driving with a suspended or revoked license.

§ 1309.8 Award procedures.

For each Federal fiscal year, grants under 23 U.S.C. 408 shall be made to eligible States upon submission of the alcohol safety plan and certification required by § 1309.4. Such grants shall be made until all eligible States have received a grant or until there are insufficient funds to award a grant to a State. Time of submission shall be determined by the postmark for certifications delivered through the mail and by stamped receipt for certifications delivered in person.

Issued on: May 13, 1985.

Diane K. Steed,

Administrator.

[FR Doc. 85-11823 Filed 5-13-85; 12:49 pm]

BILLING CODE 4910-59-M

Coast Guard

33 CFR Part 100

[CGD1-85-1R]

Regatta; Marina Bay 100

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The Coast Guard is considering a proposal to restrict the navigation of non-participating vessels in the proposed race route of the "Marina Bay 100" power boat race. This event will be held on June 29, 1985 at 11:00 a.m. The regulations are needed to provide for the safety of life on navigable waters during the event.

DATE: Comments must be received on or before June 17, 1985.

ADDRESS: Comments should be mailed to Commander (b), First Coast Guard District, 150 Causeway Street, Boston, MA 02114. The comments and other materials referenced in this notice will be available for inspection and copying at 150 Causeway Street, Room 1102, Boston, MA 02114. Normal office hours are between 8:00 a.m. and 4:00 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LTJG T.E. Hobaica, (617) 223-3607.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD1-85-1R) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this regulation are LTJG T.E. Hobaica, USCG, project officer, First Coast Guard District Boating Standards/Affairs Branch and LCDR J.M. Collin, project attorney, First Coast Guard District Legal Office.

Discussion of Proposed Regulations

The participants in this marine event, sponsored by the Race New England, include approximately 30 high speed offshore power boats. The participants will follow a course from position 42°18'38" N., 070°51'53" W. to 42°16'37" N., 70°50'00" W. to 42°17'02" N., 070°46'00" W., to 42°19'38" N., 070°49'50" W. The race will be patrolled by various units from Coast Guard Group Boston with Auxiliary units augmenting throughout. Inclement weather will postpone the race until 30 June 1985. The purpose of this regulation is to augment the safety precautions taken by the sponsor to insure the safety of the boating public and the participants of this event. Severe injury to spectators and the boating public due to loss of steerage by high speed power boats constitute the primary concern.

This regulation limits the distance to which non-participating vessels may approach the race course in order to provide for the safety of life on navigable waters during this marine event. A Captain of the Port Safety Zone was issued in support of the 1984 Marina Bay 100.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This regulation restricts navigation for only a short period of time and only affects a small body of water.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, by adding § 100.35-1-01R to read as follows:

§ 100.35–1–01R Marina Bay 100.

(a) *Regulated Area:* All areas within 800 yards of a line drawn from position 42°18'38" N., 070°51'53" W. to 42°16'37" N., 70°50'00" W. to 42°17'02" N., 070°46'00" W., to 42°19'38" N., 070°49'50" W.

(b) *Effective Period:* 10:45 a.m., June 29, 1985 until 3:00 p.m., June 29, 1985 or completion of the Marina Bay 100, whichever is later.

(c) *Special Local Regulations:* All non-participating vessels operating in the vicinity of participants in this event shall:

(1) Approach no closer than 800 yards from the above Regulated area.

(2) Exercise extreme caution when operating in this area.

(3) All vessels in the effective area will comply with the instructions from the Coast Guard and Coast Guard Auxiliary vessels.

(33 U.S.C. 1233; 49 U.S.C. 108; 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: May 13, 1985.

R.A. Bauman, RADM, USCG,

Commander, First Coast Guard District.

[FR Doc. 85–11874 Filed 5–15–85; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD3 85–18]

Regatta; Connecticut River Raft Race

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The Coast Guard is considering a proposal to establish Special Local Regulations for the Annual Connecticut River Raft Race being sponsored by the Connecticut River Raft Race Inc., of Norwich, Connecticut. The purpose of this regulation is to provide for the safety of participants and spectators on navigable waters during the event.

DATES: Comments must be received on or before July 1, 1985.

ADDRESSES: Comments should be mailed to Commander (b), Third Coast Guard District, Governors Island, New York, NY 10004. The comments will be available for inspection and copying at the Boating Safety Office, Building 110, Governors Island, New York, NY. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LT D.R. Cilley, (212) 668–7974.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or argument. Persons submitting comments should include their names and addresses, identify this notice (CGD3 85–18) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are LT D.R. Cilley, Project Officer, Third Coast Guard District Boating Safety Division, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Proposed Regulations

The Annual Connecticut River Raft Race is a marine event to be held on the Connecticut River between Hurd and Haddam Meadows State Parks. It is sponsored by the Conecitcut River Raft Race Inc., of Norwich CT and is well known to the boaters and residents of this area. This event is traditionally held each year on the first Saturday in August. Because of the annual nature of this event, the Coast Guard proposes to promulgate a permanent amendment to Part 100 of Title 33, Code of Federal Regulations and thereafter provide the public with full and adequate notice of this annual event by publication in the Third District Local Notice to Mariners. Over 100 self-propelled homemade rafts will cruise down a 2.5 mile section of the Connecticut River. Vessels provided by the State of Connecticut State Police, and Department of Environmental Protection will work in conjunction with approximately 12 vessels provided by the sponsor to patrol this event. Specific requirements have been imposed upon the sponsor to ensure that all participants wear personal flotation devices throughout the event for their own safety. In order to provide for the safety of life and property, the Coast Guard will restrict vessel movement prior to and during this event on this section of the river. A Coast Guard patrol vessel will be located at strategic locations on the river both above and below the regulated area to stop vessel traffic.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a fully regulatory evaluation is unnecessary. This event will draw a large number of spectator craft into the area for the duration of the race. This should have a favorable impact on commercial facilities providing services to the spectators. This area used primarily by recreational boaters; any impact on commercial traffic in the area will be negligible.

Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended by adding Section 100.305 to read as follows:

§ 100.305 Connecticut River Raft Race.

(a) *Regulated Area:* That section of the Connecticut River between the Salmon River (Marker no. 48) and Middle Haddam (Marker no. 72).

(b) *Effective Period:* This regulation will be effective from 9:00 a.m. to 2:00 p.m. on August 3, 1985 and thereafter annually on the first Saturday in August unless otherwise specified in the Third District Local Notice to Mariners and in a **Federal Register** Notice.

(c) *Special Local Regulations:* (1) The regulated area shall be closed to all vessels in excess of 20 meters (65.6 feet) in length during the effective period.

(2) All persons or vessels not registered with the sponsor as participants or not part of the regatta patrol are considered spectators.

(3) All spectator vessels shall be moored or anchored prior to the start of the event in such a way as to not interfere with the passage of the race participants. They shall remain

anchored or moored until the end of the race or until directed by a patrol vessel.

(4) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(5) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: May 7, 1985.

P.A. Yost,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 85-11875 Filed 5-15-85; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Parts 140, 141, 142, 143, 144, 145, and 146

[CGD 84-098]

Revision of the Regulations on Outer Continental Shelf Activities, Extension of Comment Period

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: This notice extends the comment period of the advance notice of proposed rulemaking that would revise the Coast Guard regulations on Outer Continental Shelf (OCS) Activities. The extension was requested by four commentors, three of whom are industry associations. All four commentors cited the broad scope of this regulatory initiative and their difficulty in providing meaningful responses within the original 90 day comment period. Two commentors requested a six month extension, one commentor requested a three month extension, and one commentor requested an extension of an unspecified length. Because of these requests for additional time to comment on the advance notice of proposed rulemaking, the deadline for receipt of comments is extended to September 3, 1985.

DATE: The comment period on the advance notice of proposed rulemaking is extended to September 3, 1985.

ADDRESS: Comments should be mailed to the Commandant (G-CMC/21) (CGD 84-098), U.S. Coast Guard, 2100 Second Street S.W., Washington, DC 20593. Between the hours of 8 a.m. and 4 p.m. Monday through Friday except holidays, comments may be delivered to, and are available for inspection and copying at, the Marine Safety Council (G-CMC/21), Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street S.W., Washington, DC. (202) 426-1477.

FOR FURTHER INFORMATION CONTACT: LCDR A.J. Cross G-MVI-4, (202) 426-2307.

SUPPLEMENTARY INFORMATION: This advance notice of proposed rulemaking was published on March 7, 1985, in the Federal Register (50 FR 9290). A correction notice was published on March 14, 1985 (50 FR 10252).

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

May 13, 1985.

[FR Doc. 85-11873 Filed 5-15-85; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 3

Headstone or Marker Allowance

AGENCY: Veterans Administration.

ACTION: Proposed rule.

SUMMARY: The Veterans Administration (VA) is proposing to increase the monetary allowance payable in lieu of a Government-furnished headstone or marker from $68 to $70. The need for this action results from the fact that the average actual cost of a Government-furnished headstone or marker for fiscal year 1984 was $70. The effect of this proposed amendment would be to permit payment of up to $70 in lieu of a Government-furnished headstone or marker.

DATES: Comments must be received on or before June 17, 1985.

These changes are proposed to be effective October 1, 1984.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding these changes to Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132 at the above address between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until July 1, 1985.

FOR FURTHER INFORMATION CONTACT: Robert M. White, (202) 389-3005.

SUPPLEMENTARY INFORMATION: Under 38 CFR 3.1612 the Veterans Administration is authorized to pay a monetary allowance in lieu of furnishing a headstone or marker at Government expense under the provisions of 38 CFR 1.631 (a)(2) and (b). The amount of the allowance is the lesser of the actual cost of acquiring a non-Government headstone or maker (or adding identifying information to an existing marker) or the average actual cost of a Government-furnished headstone or marker for the fiscal year preceding the fiscal year in which the non-Government headstone or marker was furnished (or identifying information added).

The average actual cost to the Veterans Administration of headstones and markers furnished at Government expense for fiscal year 1984 (Oct. 1, 1983 through Sept. 30, 1984) was $70. Consequently, we are amending § 3.1612(e) to reflect this information.

The Administrator has certified that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Also, this change simply updates VA regulations to reflect the actual average cost to the VA of headstones and markers in fiscal year 1984. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. In accordance with Executive Order 12291, Federal Regulation, we have determined that this regulatory amendment is non-major for the following reasons.

(1) It will not have an effect on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Catalog of Federal Domestic Assistance Program number is 64.101.

Approved: May 1, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 3—[AMENDED]

38 CFR Part 3 *Adjudication*, is amended by revising § 3.1612, paragraph (e)(2)(ii) to read as follows:

§ 3.1612 Monetary allowance in lieu of a Government-furnished headstone or marker.

* * * * *

(e) *Payment and amount of the allowance.*

* * * * *

(2) * * *

(ii) The average actual cost, as determined by the VA, of headstones and markers furnished at Government expense for the fiscal year preceding the fiscal year in which the non-Government headstone or marker was purchased or the services for adding the veteran's identifying information on an existing headstone or marker were purchased. The average actual cost of headstones and markers furnished at Government expense for fiscal year 1983 (October 1, 1982 through September 30, 1983) is $68 and for fiscal year 1984 (October 1, 1983 through September 30, 1984) is $70.

(38 U.S.C. 906(d))

* * * * *

[FR Doc. 85-11835 Filed 5-15-85; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2837-2]

Standards of Performance for New Stationary Sources: VOC Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI), Air Oxidation Processes and Distillation Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule: Reopening of Pubic Comment Period.

SUMMARY: The period for receiving written comments on the proposed New Source Performance Standards (NSPS) for Volatile Organic Compound emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI), Air Oxidation Processes and Distillation Operations, is being reopened for the limited purpose of allowing public comment on the results of the EPA's reanalysis of the total resource effectiveness (TRE) equations and coefficients, the costing procedures, and the designation of affected facility in both proposed standards. Analysis of new information received in public comments and collected since proposal has resulted in changes to the TRE equations and coefficients for both proposed standards and reconsideration of the affected facility designation for the distillation operations proposed standards. Comments will also be considered on the documentation in the air oxidation and distillation dockets concerning the potentially toxic compounds emitted from air oxidation processes and distillation operations.

DATE: Comments must be postmarked on or before July 15, 1985.

ADDRESS: Comments should be submitted [in duplicate if possible] to: Central Docket Section [LE-131], U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Specify the following docket numbers: A-81-22 (Air Oxidation Processes) and A-80-25 (Distillation Operations).

FOR FURTHER INFORMATION CONTACT: Mr. William Harnett, for copies of memoranda on revised flare and incinerator costing procedures or for further information on regulatory decisions and the affected facility designation, at the Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone number (919) 541-5578. Mr. Robert Rosensteel or Mr. David Beck, for information on the costing revisions and the TRE equations and coefficients, at the above address, telephone number (919) 541-5671.

SUPPLEMENTARY INFORMATION: On October 21, 1983, EPA proposed in the **Federal Register** (48 FR 48932) standards for volatile organic compound (VOC) emissions from air oxidation processes under Section 111 of the Clean Air Act. The public comment period for the proposed standards ended January 3, 1984. Also, under Section 111, EPA proposed in the **Federal Register** (48 FR 57538) standards for VOC emissions from distillation operations on December 30, 1983. The public comment period for the proposed standards ended March 13, 1984. The EPA received comments from 19 interested parties on the costing procedures used for both standards and on the designation of affected facility for the distillation NSPS. These comments caused the Agency to consider changes to sections of both proposed standards. The revised costing procedures and the affected facility changes being considered are discussed in two separate sections within this notice, beginning with costing procedures.

Because of the changes that are being considered and the EPA's desire to ensure that the standards are based on the most complete and accurate information available, EPA is reopening the public comment period until July 15, 1985. The EPA will consider only those comments that pertain to the revised total resource effectiveness (TRE) equations and coefficients in both proposed NSPS, the costing procedures in both proposed NSPS, the documentation of the potentially toxic compounds emitted from air oxidation processes and distillation operations, and the designation of affected facility in both proposed standards; the comment period for all other aspects of the rulemaking ended January 3, 1984, and March 13, 1984, respectively for the air oxidation and distillation proposed standards.

Revision to Costing Procedures Since Proposal

The EPA received letters from 10 commenters on the costing procedures used for both the proposed air oxidation processes NSPS and the proposed distillation operations NSPS. These commenters indicated that some of the costing assumptions were incorrect and that the costing procedures overlook several items that should have been included. Also, at the National Air Pollution Control Techniques Advisory Committee meeting for the reactor process draft NSPS, one commenter had noted differences among results obtained from the TRE equations used for the two proposed standards and the draft standards for reactor processes. The commenter had sugggested that since the TRE equations are used to determine if it is cost effective to further control the VOC emissions, the three equations should calculate essentially the same TRE values for a given set of vent stream characteristics. After evaluating the public comments on costing, EPA performed a complete review of all costing procedures, including those not commented on by the public. Based on that analysis, EPA has preliminarily decided to make several changes to the costing methodology.

Changes were first made to costing procedures for both air oxidation processes and distillation operations where appropriate. The TRE index equation for the proposed air oxidation NSPS was also revised so that a TRE index value of 1.0 is associated with a cost effectiveness of $1,900 per Mg. of VOC controlled, similar to the TRE index equations in the proposed distillation NSPS and draft reactor processes NSPS.

With respect to the incinerator costing procedures, EPA made several changes including: modifications in design of the vent stream duct and addition of duct supports; revisions to the estimated prices of natural gas, electricity, water, and caustic; adoption of a new methodology for calculating total labor cost; and revision of the taxes, insurance, and administration charges factor.

The Agency incorporated several changes in costing procedures suggested by commenters. One example involves the need for an incinerator duct support system used to mount the vent stream duct which is routed from the emission source to the control device. The original costing procedures assumed that all ducts would be supported on existing support structures. However, industry commenters indicated that a separate duct support system is necessary because, in many cases, existing support structures will not be available. The EPA decided that the incinerator costing procedures should include the cost of a duct support system. Although there was little information contained in the industry comment describing the design of the recommended support structure, they estimated that a support structure, referred to as a pipe bridge, would be needed and would have an installed capital cost of $50,000 (1984 dollars). Independent investigations into support structure costs indicated that this cost represents a type of heavy-duty pipe bridge capable of supporting a number of large diameter ducts. However, for an individual affected facility, relatively small diameter pipes would be used and the number of pipes and ducts would be few. Therefore, a lighter weight pipe rack was costed and included in the costing procedures for incinerators.

Changes were also made to the incinerator costing procedures as a result of the Agency's comprehensive review. One example of these changes involves the natural gas price used in the costing procedures. Although the public had not commented on the gas price, EPA reviewed both the gas price estimate used in the procedures and the method used to develop that price. The gas price used for the air oxidation and distillation proposed NSPS was based on price projected to the fifth year of the respective standards' applicability and then expressed in the appropriate base year dollars for each standard. As a result of the Agency's re-evaluation, the natural gas price was revised to include: (1) Use of a gas price projection method that more accurately reflects current gas price trends, (2) adoption of a gas price that is geographically weighted according to the occurrence of SOCMI production in the 10 EPA Regions, and (3) use of net heating value as the basis for natural gas energy costs. The revised gas price is lower than the price used at proposal because the proposal price was based on projections made when gas prices were increasing rapidly due to deregulation. The steep rise in prices projected at proposal did not continue. Consequently, the gas price used at proposal was too high.

The change in costing procedures required the development of a revised TRE equation and the derivation of new coefficients for the TRE equation, since the TRE equation and coefficients are derived from the costing procedures. The revised TRE equation is presented in Table 1. The revised TRE coefficients are presented in Table 2.

The cost, environmental, and energy impacts of the air oxidation NSPS have also changed, since these impacts are estimated using the revised incinerator costing procedures. The regulatory impact analysis presented in the preamble to the proposed air oxidation NSPS was based on data in the national emission profile (NEP) developed for air oxidation processes. The NEP was revised after the preparation of the proposed regulatory impact analysis. The revised NEP is presented in Appendix F of the background information document for the proposed standards, "Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry," EPA–450/3–82–001a. Table 3 reflects the impacts based on the revised NEP and the costing procedures used at proposal. Table 4 reflects the current impacts based on the revised NEP and the revised costing procedures.

Table 1.—Revised Air Oxidation/ Distillation Incinerator Total Resource Effectiveness (TRE) Index Equation

$$TRE = 1/E_{TOC}\,[a + b\,(Q_s)^{0.88} + c\,(Q_s) + d\,(Q_s)\,(H_T) + e\,(Q_s)^{0.88}(H_T)^{0.88} + f\,(Q_s)^{0.5}]$$

where:

TRE = Total resource effectiveness index value;

Q_s = Vent stream flow rate (scm/min), at a standard temperature of 20 °C;

H_T = Vent stream net heating value (MJ/scm), where the net enthalpy per mole of offgas is based on combustion at 25 °C and 760 mmHg, but the standard temperature for determining the volume corresponding to 1 mole is 20 °C, as in the definition of Flow; and

E_{TOC} = Hourly emissions of total organic compounds reported in kg/hr measured at full operating flow rate.

a, b, c, d, e, and f are coefficients from Table 2.

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Table 2. AIR OXIDATION/DISTILLATION NSPS INCINERATOR COEFFICIENTS

A1. FOR CHLORINATED PROCESS VENT STREAMS, IF 0 ≤ NET HEATING VALUE (MJ/scm) ≤ 3.5:

W = Design Standard Flowrate (scm/min)	a	b	c	d	e	f
W < 13.5	21.93709	0	0.75762	-0.13004	0	0
13.5 < W ≤ 19.82	19.18370	0.27580	0.75762	-0.13064	0	0.01025
19.82 < W ≤ 699.4	20.00563	0.27580	0.30387	-0.13064	0	0.01025
699.4 < W ≤ 1398.9	39.87022	0.29973	0.30387	-0.13064	0	0.01449
1398.9 < W ≤ 2098.3	59.73481	0.31467	0.30387	-0.13064	0	0.01775
2098.3 < W ≤ 2797.7	79.59941	0.32572	0.30387	-0.13064	0	0.02049
2797.7 < W ≤ 3497.2	99.46400	0.33456	0.30387	-0.13064	0	0.02291

A2. FOR CHLORINATED PROCESS VENT STREAMS, IF 3.5 < NET HEATING VALUE (MJ/scm):

W = Design Standard Flowrate (scm/min)	a	b	c	d	e	f
W < 13.5	21.51549	0	0.20044	0	0	0
13.5 < W ≤ 19.82	18.84466	0.26742	0.20044	0	0	0.01025
19.82 < W ≤ 699.4	19.66658	0.26742	-0.25332	0	0	0.01025
699.4 < W ≤ 1398.9	39.19213	0.29062	-0.25332	0	0	0.01449
1398.9 < W ≤ 2098.3	58.71768	0.30511	-0.25332	0	0	0.01775
2098.3 < W ≤ 2797.7	78.24323	0.31582	-0.25332	0	0	0.02049
2797.7 < W ≤ 3497.2	97.76879	0.32439	-0.25332	0	0	0.02291

B. FOR NONCHLORINATED PROCESS VENT STREAMS, IF 0 ≤ NET HEATING VALUE (MJ/scm) ≤ 0.48:

W = Design Standard Flowrate (scm/min)	a	b	c	d	e	f
W < 13.5	9.61935	0	0.09030	-0.17109	0	0
13.5 < W ≤ 1345	8.54245	0.10555	0.09030	-0.17109	0	0.01025
1345 < W ≤ 2690.1	16.94386	0.11470	0.09030	-0.17109	0	0.01449
2690.1 < W ≤ 4035.2	25.34528	0.12042	0.09030	-0.17109	0	0.01775

C. FOR NONCHLORINATED PROCESS VENT STREAMS, IF 0.48 < NET HEATING VALUE (MJ/scm) ≤ 1.9:

W = Design Standard Flowrate (scm/min)	a	b	c	d	e	f
W < 13.5	9.89107	0	0.31937	-0.16181	0	0
13.5 < W ≤ 1345	9.25233	0.06105	0.31937	-0.16181	0	0.01025
1345 < W ≤ 2690.1	18.36363	0.06635	0.31937	-0.16181	0	0.01449
2690.1 < W ≤ 4035.2	27.47492	0.06965	0.31937	-0.16181	0	0.01775

D. FOR NONCHLORINATED PROCESS VENT STREAMS, IF 1.9 < NET HEATING VALUE (MJ/scm) ≤ 3.6:

W = Design Standard Flowrate (scm/min)	a	b	c	d	e	f
W < 13.5	7.39997	0	0.02582	0	0	0
13.45 < W ≤ 1183.7	6.67868	0.06943	0.02582	0	0	0.01025
1183.7 < W ≤ 2367.3	13.21633	0.07546	0.02582	0	0	0.01449
2367.3 < W ≤ 3550.9	19.75398	0.07922	0.02582	0	0	0.01775

E. FOR NONCHLORINATED PROCESS VENT STREAMS, IF 3.6 < NET HEATING VALUE (MJ/scm):

W = Design Standard Flowrate (scm/min)	a	b	c	d	e	f
W < 13.5	7.39997	0	0	0.00707	0	0
13.45 < W ≤ 1183.7	6.67868	0	0	0.00707	0.02220	0.01025
1183.7 < W ≤ 2367.3	13.21633	0	0	0.00707	0.02412	0.01449
2367.3 < W ≤ 3550.9	19.75398	0	0	0.00707	0.02533	0.01775

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TABLE 3.—ESTIMATED IMPACTS OF SELECTED REGULATORY ALTERNATIVES FOR THE AIR OXIDATION NSPS*

Regulatory alternative	TRE cutoff (dollars per milligram)	Percent of sources affected	National emissions (1,000 milligrams per year)	Percent emissions reduction from baseline	National annualized cost (10^6 dollars per year)	National capital cost (10^6 dollars per year)
Baseline		0	23.5	0	0	0
I	656	2	22.5	4	0.4	1.7
II	1,330	10	16.8	29	4.6	5.9
III	1,900	15	13.4	43	10.2	7.8
IV	2,748	31	10.4	56	17.3	17.8
V	5,497	59	3.2	86	45.4	32.1
VI	>5,500	100	0.47	98	75.9	57.6

* Estimated impacts using the revised national emissions profile and the costing procedures at proposal.

TABLE 4.—ESTIMATED IMPACTS OF SELECTED REGULATORY ALTERNATIVES FOR THE AIR OXIDATION NSPS*

Regulatory alternative	TRE cutoff (dollars per milligram)	Percent of sources affected	National emissions (1,000 milligrams per year)	Percent emissions reduction from baseline	National annualized cost (10^6 dollars per year)	National capital cost (10^6 dollars per year)
Baseline		0	23.5	0	0	0
I	656	5	18.6	21	1.8	4.4
II	1,330	12	15.8	33	4.2	9.1
III	1,900	19	12.8	46	8.9	14.4
IV	2,748	34	9.9	58	15.5	25.8
V	5,497	68	1.8	92	44.5	62.3
VI	>5,500	100	0.47	98	62.2	89.9

* Estimated impacts after cost revisions.

The net effect of all these cost procedure changes would be to lower total annualized costs for most air oxidation facilities. This would occur primarily because of the lower natural gas price that would be used in the costing procedures. The total installed capital cost would increase slightly for all facilities because of the addition of duct support costs, but after annualizing this cost, the increase in total annualized cost would be much less than the decrease associated with the lower fuel costs. Also, the labor cost would increase slightly due to the addition of supervisory labor, but this increase also would be much less than the decrease associated with the lower fuel costs and the net effect would be a decrease in annualized costs.

At the TRE cutoff ($1,900/Mg), the costing procedure changes would result in the following changes in the estimated impacts: (a) The percent of sources affected would increase by 4 percent; (b) the national emissions reduction beyond baseline would increase by 3 percent; (c) the national annualized cost would decrease by $1,300,000/yr; and (d) the national capital cost would increase by $6,600,000.

The preceding discussion contained examples of changes in the incinerator costing procedures. Additional information on all the changes made to the incinerator costing procedures is available in a memorandum entitled "Revisions to the Incinerator Costing Algorithm." This memorandum has been placed in Dockets A–81–22, Item IV–B–8 (Air Oxidation) and A–80–25, Item IV–B–7 (Distillation). These dockets are available for public inspection. Copies of the memorandum are available from Mr. William Harnett at the address given in the section entitled **FURTHER INFORMATION.**

With respect to flare costing procedures, EPA made revisions or added costs associated with certain components. These include modifications in the design of the vent stream duct and addition of piping and duct supports; revisions to the estimated prices of natural gas, electricity, water, and caustic; adoption of a new methodology for calculation of total labor costs; addition of costs for natural gas, steam, and instrument air lines to the flare; modifications in some flare operating and design specifications; and changes in the taxes, insurance, and administration charges factor.

The Agency incorporated some changes in the flare costing procedures identical to those made for thermal incinerators. As with the incinerator costing procedures, modifications were made to the electricity price, the calculation of total labor costs, and the natural gas price. For example, the natural gas price used for flares was revised for the reasons previously mentioned. Also, costs were estimated and added for installing a duct support system appropriate for routing a vent stream to a flare.

The EPA made further changes to the flare costing procedures to incorporate several public comments. One example involves the costs associated with bringing services such as natural gas, instrument air, and steam lines to the base of the flare. Several industry commenters stated that the cost associated with these services had been overlooked. Upon evaluating this comment, EPA decided that, since services will not be readily available near the base of the flare, such services to the flare should be included in the costing procedures. The support structure discussed above was sized to be sufficient for supporting the vent stream duct and the lines for the services.

The change in costing procedures required the development of a new TRE index equation and the derivation of new TRE coefficients, since these are derived from the new costing procedures. The revised TRE index equation is presented in Table 5 and the revised TRE coefficients are presented in Table 6. The cost, environmental, and energy impacts of the proposed distillation NSPS are based on the use of either a flare or incinerator to achieve the required 98 weight-percent VOC reduction. Table 7 presents the estimated cost, environmental, and energy impacts of regulatory alternatives before cost revisions. The revised cost, environmental, and energy impacts are summarized in Table 8. The total installed capital and total annualized cost of control will vary among facilities according to the flow rate, net heating value, and VOC emission rate of individual vent streams. However, for most distillation vent streams, the changes in the costing procedures for the two control techniques would tend to cause a slight increase in the total annualized cost and corresponding cost of control per megagram of VOC emissions reduced.

Table 5.—Revised Flare TRE Index Equation for Distillation NSPS

$$TRE = \frac{1}{E_{TOC}} \{aQ_s + bQ_s^{0.8} + cQ_sH_T + dE_{TOC} + e\}$$

Where:
TRE = Total resource effectiveness index,
Q_s = Vent stream flow rate (scm/min),
H_T = Vent stream heating value (MJ/scm), and
E_{TOC} = VOC emission rate (kg/hr).
a, b, c, d, and e are coefficients.

TABLE 6.— COEFFICIENTS FOR FLARE TRE INDEX EQUATION FOR DISTILLATION NSPS

	a	b	c	d	e
For net heating value <11.2 MJ/scm (300 Btu/scf)	2.25	0.288	−0.193	−0.0051	2.08
For net heating value >11.2 MJ/scm (300 Btu/scf)	0.309	0.0619	−0.0043	−0.0034	2.08

The primary reasons for the increased annualized costs that would be incurred by the majority of facilities are the following: (1) An increase in the minimum vent stream net heating value requirement for attaining 98 weight-percent VOC destruction efficiency using flares; (2) the addition of costs associated with a piping support system for both control techniques; (3) the addition of costs associated with natural gas, air, and steam services for flares; and (4) an increase in the total labor cost due to the addition of supervisory labor costs for both control techniques.

Overall, fewer distillation units are shown to have to control VOC emissions compared to proposal for each regulatory alternative. At the $1,900/Mg cutoff, the following changes in estimated impacts would occur: (1) The number of distillation units projected to be controlled would decrease by 16 percent; (2) the national emissions reduction over baseline would decrease by 4 percent; (3) the national total annualized cost would decrease by $590,000/yr; and (4) the national additional energy requirement would increase by 22,000 MMBtu/yr.

TABLE 7.—ESTIMATED IMPACTS OF PROPOSED DISTRIBUTION NSPS PRIOR TO COSTING PROCEDURE REVISIONS

Dollars per milligram cutoff	Number of units controlled*	VOC emissions reduction over baseline*		Total annualized cost, 10^6 dollars	Additional energy requirement 10^4 million Btu per year
		10^9 milligrams per year	Percent		
0	0	0	0	0	0
100	31	28.6	52	1.07	7.2
300	63	39.7	60	1.55	8.4
600	118	33.8	66	2.60	11.3
1,000	197	40.2	79	6.77	43.7
1,400	284	42.2	83	7.88	50.5
1,900	342	43.9	86	9.59	54.5
2,900	348	44.0	86	9.70	54.7
3,500	390	44.4	87	10.0	55.7
9,000	456	44.9	88	12.5	64.9
20,000	545	45.2	89	14.4	73.9
75,000	689	45.5	89	19.2	95.4
No cutoff	888	45.5	89	21.3	110.0

* 888 units potentially controlled by NSPS + 312 units controlled without NSPS (due to State regulations or for resource recovery) + 860 units with recycled vent streams or negligible flows (insignificant emissions) = 2,060 units expected to be constructed within the next 5 years.
[b] Reductions are for a baseline emission rate of 51,000 Mg/yr.
NOTE.—This table overstates both costs and emission reductions for a given cutoff. Costs presented in this table assume flares are used for required control, but under certain circumstances, boilers or process heaters will be less costly. Furthermore, sources close to the cutoff may install product recovery devices rather than combustion controls, costing less and producing less of a reduction in emissions. The degree of overstatement cannot be quantified.

TABLE 8.—ESTIMATED IMPACTS OF PROPOSED DISTRIBUTION NSPS AFTER COSTING PROCEDURE REVISIONS

Dollars per milligram cutoff	Number of units controlled*	VOC emissions reduction over baseline*		Total annualized cost, 10^6 (dollars)	Additional energy requirement 10^4 million Btu per year
		10^9 milligrams per year	Percent		
0	0	0	0	0	0
100	21	19.6	36	0.46	0.98
300	31	28.7	52	1.13	1.43
600	84	33.4	65	3.43	18.3
1,000	161	37.0	72	5.31	39.2
1,400	230	39.7	78	6.07	45.3
1,900	286	42.2	82	9.00	56.7
2,900	344	44.1	86	11.9	67.4
3,500	344	44.1	86	11.9	67.4
9,000	452	44.8	88	14.2	72.7
20,000	486	45.2	88	18.8	74.1
75,000	609	45.5	89	23.9	107.7
No cutoff	888	45.5	89	26.9	116.5

* 888 units potentially controlled by NSPS + 312 units controlled without NSPS (due to State regulations or for resource recovery) + 860 units with recycled vent streams or negligible flows (insignificant emissions) = 2,060 units expected to be constructed within the next 5 years.
[b] Reductions are for a baseline emission rate of 51,000 Mg/yr.

NOTE.—This table overstates both costs and emission reductions for a given cutoff. Costs presented in this table assume flares or incinerators are used for required control, but under certain circumstances, boilers or process heaters will be less costly. Furthermore, sources close to the cutoff may install product recovery devices rather than combustion controls, costing less and producing less of a reduction in emissions. The degree of overstatement cannot be quantified.

Additional information on the changes made to the flare costing methodology is available in a memorandum "Revisions to the Flare Costing Algorithm." This memorandum has been placed in Docket A-80-25, Item IV-B-8 (Distillation). This docket is available for public inspection. Copies of the memorandum are available from Mr. William Harnett at the address given in the section entitled FURTHER INFORMATION.

An additional change being considered to the proposed distillation operations NSPS concerns the use of the flare and incinerator TRE equations for determining whether an affected facility must be controlled. The proposed regulation would requre the incinerator TRE equation to be used when the vent stream of an affected facility contains halogenated compounds. The EPA is not considering a change to this provision. However, in the case of a vent stream containing nonhalogenated compounds, EPA is considering requiring the use of the incinerator TRE equation and the flare TRE equation. The lower value of the two calculated TRE indexes would be used to determine a vent stream must be controlled. Under the proposed standards, only the flare TRE equation would have been required to be used for nonhalogenated vent streams. This change in procedure is being considered because a review of control cost estimates for distillation vent streams in the EPA's emission data base revealed that occasionally incinerators may be less expensive than flares.

Affected Facility Designation for Distillation NSPS and Air Oxidation NSPS

As a result of industry comments, EPA is considering changing the affected facility designation for the proposed distillation NSPS to the individual recovery system and all distillation units venting to that recovery system. This revised designation is consistent with the affected facility designation in the proposed air oxidation NSPS. This change is being considered because it would net greater emission reductions than would the narrower designation in the proposed standards. At proposal of the distillation NSPS, the affected facility was designated to be any single distillation unit with its asociated recovery system that produces any of the chemicals listed in § 60.667 of the proposed regulation. This designation was thought to represent the narrowest practical designation of affected facility, which generally results in the greatest emission reductions because it ensures that all new, modified, and reconstructed units will be brought under coverage of the standards as they are constructed, modified, or reconstructed. Based on information available at the time, the Agency believed that designation to be an accurate reflection of the way all distillation operations are designed and operated in the industry. The EPA selected the affected facility designation at proposal for these reasons.

The EPA treats the narrow designation only as a presumption, however, because in some cases a broader affected facility designation may be more consistent with the purposes of Section 111. For example, the Agency might choose a broader designation if it concludes that either (1) it would result in greater emissions reduction than would a narrow designation; or (2) the other relevant statutory factors (technical feasibility, energy, cost, and nonair quality health and environmental impacts) point to a broader designation.

At proposal, EPA specifically requested public comment on this designation and on two alternative designations: (1) The recovery system with all associated distillation units, and (2) all the distillation units and recovery systems in the process unit. The EPA received comments from nine industry representatives and one environmental group representative. One industry commenter and the environmental group representative supported the designation set forth at proposal; seven commenters disagreed with that designation and recommended designating the affected facility as the recovery system with all associated distillation units routed to that recovery system. No comments were received recommending the entire plant as the affected facility.

The seven industry commenters who had disagreed with the designation selected at proposal did so because, they stated, the designation did not reflect the way distillation units are operated within the industry. The commenters indicated that distillation units are often physically linked together, and that separating them in the proposed designation would be inconsistent with the way units are operated. Further, the commenters stated that a broader designation would give industry flexibility to change operating conditions or equipment in lieu of adding combustion devices. They also added that reduction in testing, control, and hardware costs would result from the change without any significant loss in emission reductions.

After receipt of these comments, EPA initiated an investigation to identify how distillation units may be linked together and to determine the frequency and types of changes they may occur at distillation facilities. This investigation was made in order to evaluate how these factors may affect the designation used at proposal.

A re-evaluation of existing information supplied by industry shows that as many as 20 percent of all distillation units are ducted together and have common recovery systems. Under the designation selected for distillation at proposal, two new units ducted to a common recovery system would have constituted two affected facilities. (For further information, see the memorandum, "Product Recovery Systems Used in Distillation Column Vent Streams," in Docket No. A-80-25, Item IV-B-2.) The industry information also shows that 80 percent of new units stand alone and would face the same situation under either of the designations set forth earlier.

Along with re-evaluating existing information, the Agency also obtained new information by contacting industry representatives. (See memorandum entitled "Process Changes and Replacements Occurring at Distillation Facilities," Docket A-80-25, Item IV-B-9.) The representatives were asked to identify the reason why distillation units would share the same recovery system, the longevity of distillation units, the typical changes occurring at distillation facilities and frequency of these changes, and the manner in which capacity is added at distillation facilities. All of the representatives agreed that when distillation units share the same recovery system, the units are all used to distill the same chemical.

Information obtained from industry indicates that the replacement or reconstruction of distillation units rarely occurs within the industry because there units are normally designed to last the lifetime of the facility. This is true even for distillation units handling corrosive vent streams. Distillation unit replacements that do occur are likely to be the result of process changes, or possibly the result of catastrophic events such as a plant explosion which would destroy the units. Industry information also indicates that when changes are made to individual units at distillation facilities, it is usually to

improve the distillation process for greater efficiency or to change the process to produce a new chemical. Where several units share a recovery system, it is a common practice to make these changes simultaneously to all the units because, as mentioned previously, each unit would be producing the same chemical. Industry representatives said that uniform changes to all units would usually be necessary to maintain product purity.

There are two ways that distillation capacity is usually expanded. The first is by adding new units with a new separate recovery system. The second way is by adding a new distillation unit to an existing group of units sharing a recovery system. Any new group of units and recovery systems that are not joined together with existing units and recovery systems would be covered identically by both designations of affected facility.

In light of these facts, the Agency believes that the broader affected facility designation (i.e., the recovery system and all associated units) will result in greater VOC emission reductions for several reasons. As indicated above, the most common way for capacity expansion to occur is through adding a distillation unit to an existing group of units sharing a recovery system. Under the broader designation, when a new distillation unit is added to an existing group sharing a recovery system, there are two possible outcomes, both of which will result in greater emission reductions over the previous designation. First, if a new distillation unit is added to an existing group sharing a recovery system, and emissions increase, all distillation units sharing the recovery system will come under coverage of the standard as a modification of the affected facility. Under the designation at proposal, only the new unit would have been covered. Second, if a new distillation unit is added to an existing group and emissions do not increase, this would equal 100 percent VOC reduction for the new unit. Under the designation at proposal, VOC emissions from the unit would have to be reduced by 98 weight percent if the TRE index value was less than or equal to 1.0. Although it is unlikely that VOC emissions will not increase after the distillation unit is added, the broader designation still would result in greater VOC emission reductions than would the designation at proposal.

The Agency believes that reconstruction or modification provisions would not be avoided under the designation being considered because reconstruction or modification of only one distillation unit in a group of units sharing a recovery system rarely occurs in distillation operations. Distillation unit replacements usually occur as a result of process changes or as a result of catastrophic events. These situations would most likely result in the replacment of all distillation units, thereby bringing the entire affected facility under the standards.

Because the broader affected facility designation would result in greater emission reductions than the designation in the proposed standards, EPA is considering changing the affected facility designation from a single distillation unit with its associated recovery system to the individual recovery system and all distillation units venting to that recovery system.

As indicated above, this change would make the affected facility designation in the distillation standards consistent with the designation in the air oxidation standards. In response to comments received on the air oxidation proposed standards, EPA reanalyzed which affected facility designation would produce the greatest emission reduction under that standard. The Agency's analysis shows that the broader designation which had already been selected for the proposed air oxidation standards would produce greater emission reduction than any narrower designation.

The replacement of air oxidation reactors or pieces of product recovery equipment is rare within the industry. This is because reactors are expensive pieces of equipment which are designed to last a long time. Moreover, the Agency has concluded that those few replacements which do occur often result from process changes (e.g., from chlorination to hydrochlorination) or catastrophic events that would probably require replacement of most of the group of reactors joined to a single product recovery system. These changes would likely amount to a "reconstruction" of the facility as it is defined in these standards. The above information is based upon contacting industry representatives (see memorandum entitled "Process Changes Modification at Existing Facilities That May Be Covered Under the New Source Performance Standards (NSPS) for Air Oxidation Processes and Reactor Processes," Docket A-81-22, Item IV-B-3). Thus, in the small percentage of cases where reactor replacements occur, the facility would most likely fall under the coverage of the standards.

In the event an owner added a reactor to an existing group of reactors hooked up to the same product recovery system, it is unlikely the facility could avoid being considered a modification by offsetting the new reactor emissions somewhere else within the reactor group. This is because it would likely be technologically infeasible to reduce emissions sufficiently or at all from the other reactors. Although some VOC reductions could occur through upgrading product recovery equipment, it is unlikely that this reduction would result in a full offset of the new reactor emissions because the increased load on the recovery device (i.e., increased flow and VOC) would make the needed increase in VOC removal efficiency difficult to achieve. Thus, the likely result is that addition of a reactor to a group of joined reactors would bring the entire set under the coverage of the standards as a modified facility.

In short, the broad evasion of the modification and reconstruction provisions that might generally occur under a broad affected facility designations would not occur under EPA's designation for the air oxidation standards. In fact, under EPA's designation, the inability of owners to offset emissions from new reactors added to a set of existing reactors would likely cause the entire set of new and existing reactors to come under the standards as a modified facility. This results in a greater emission reduction potential than would be the case for these reactors under a narrow designation. For these reasons, EPA is not considering a change in the affected facility designation in the proposed air oxidation standards.

The EPA notes that the broader affected facility designation would make implementing both standards less costly and complex. Under that designation, only one sampling site, located just downstream of the common recovery device, would be required to determine the TRE index value during compliance testing. Under the narrower designation, three sampling sites would have been required.

Consideration of Potentially Toxic Compounds in Selecting the TRE Cutoff

A commenter on both proposed standards questioned the EPA's consideration of the reduction of potentially toxic compounds, which is a secondary benefit of controlling VOC emissions from distillation operations and air oxidation processes, in selecting the TRE cutoff. The commenter stated

that EPA has made no demonstration that emissions form these processes are toxic.

During the production of any of the chemicals covered by the two proposed standards, the potential exists that some VOC emissions from these processes will include the chemicals being produced. A document listing the known toxic effects for the chemicals covered by these standards has been placed in Dockets A-80-25 (Item IV-J-15) and A-81-22 (Item IV-J-9). The Agency believes that this information demonstrates that potentially toxic compounds could be emitted by these sources. These potentially toxic compounds would be reduced by these standards. Although EPA has not yet decided whether to list many of these chemicals under Section 112 of the Clean Air Act, the Agency believes that it may properly consider their potential toxicity in deciding what cost and, therefore, what TRE cutoff is reasonable for the purpose of implementing Section 111.

Reopening of Public Comment Period

As discussed above, EPA is reopening the public comment period and will consider only those comments that pertain to the revised TRE equations and coefficients in both proposed NSPS, the costing procedures used in both proposed NSPS, the documentation of the potentially toxic compounds emitted from air oxidation processes and distillation operations, and the designation of affected facility for both proposed standards.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic Minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by Reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators, Fiberglass insulation, Synthetic fibers.

Dated: May 9, 1985.

Charles L. Elkins,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 85-11838 Filed 5-15-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 65

[A-6-FRL-2836-5]

Administrative Orders Permitting a Delay in Compliance With Texas State Implementation Plan Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed approval.

SUMMARY: The Environmental Protection Agency proposes to approve a Delayed Compliance Order (DCO) issued by the Texas Air Control Board (TACB) to Dixico, Incorporated (Dixico), Dallas County, Texas, on December 7, 1984. The DCO requires Dixico to bring air emissions of volatile organic compounds from their flexographic and rotogravure printing processes into compliance with the Texas State Implementation Plan (SIP) by December 31, 1985. The SIP required compliance by December 31, 1982. Dallas County is presently not attaining the National Ambient Air Quality Standard for ozone. Because the order has been issued to a "major" stationary source and permits delay in compliance with the Texas SIP, the Clean Air Act requires it to be approved by EPA before it can become effective. If approved by EPA, the DCO will become an addition to the Texas SIP. In addition, a source in compliance with an approved DCO may not be sued under the federal enforcement or citizen suit provisions of the Clean Air Act for violations of SIP provisions covered by the DCO. This notice invites public comment on EPA's proposed approval of the DCO.

DATE: Interested persons are invited to submit comments on the proposed action on or before June 17, 1985.

ADDRESSES: Written comments should be submitted to the following address: Air Branch, Air and Waste Management Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270.

The State order, supporting material, evaluation report and public comments received in response to this notice are available for inspection during normal business hours at the address above (as Docket number R6-85-DCO-2) and at the following locations: Environmental Protection Agency, Public Information Reference Unit, Library Systems Branch, 401 M Street SW., Washington, D.C. 20460, and the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

FOR FURTHER INFORMATION CONTACT: Willie Kelley, Enforcement Section (6AW-AE), Air and Waste Management Division, Environmental Protection Agency, Region 6 Office, (214) 767-5145.

SUPPLEMENTARY INFORMATION: On May 3, 1982 (47 FR 18857), EPA approved TACB Regulation V, Rule 115.201, "Graphic Arts (Printing) By Rotogravure and Flexographic Processes in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant and Victoria Counties," as a revision to the Texas SIP. Rule 115.201 prohibits operation of certain flexographic or rotogravure printing facilities unless they limit emissions of volatile organic compounds (VOC) by utilization of either water based inks, high solids content inks, or by the use of "add-on" control equipment such as carbon absorption systems or incineration systems. Sources subject to the Rule were to have submitted a final control plan for compliance to the TACB by December 31, 1980, and were to be in compliance by December 31, 1982.

Dixico's Dallas plant is a "major" stationary source, which emits more than 100 tons of VOC per year from flexographic and rotogravure processes, and as such is subject to Rule 115.201. Based on Dixico's contention that water based and/or high solids content ink would not be available by the SIP compliance date and that "add-on" control equipment was economically infeasible, on August 14, 1981, the TACB issued an order to Dixico extending their SIP compliance date until December 1, 1985. The TACB did not, however, submit the SIP compliance date extension to EPA for review as a revision to the SIP, and thus the SIP required compliance date remained December 31, 1982. On January 30, 1984, EPA notified Dixico under section 113(a)(1) of the Clean Air Act that they were operating in violation of the Texas SIP. Subsequently, the TACB developed the December 7, 1984, DCO that is now proposed for approval under this notice. The TACB transmitted the DCO to EPA on January 16, 1985. EPA has reviewed the DCO,[1] and found that it satisfies the requirements of section 113(d) of the Clean Air Act, including public notice and hearing requirements and section 121 of the Clean Air Act regarding consultation with general purpose local governments.

If the DCO is approved by EPA, compliance with its terms would preclude federal enforcement action under section 113 of the Clean Air Act

[1] "EPA Review of Texas State Delayed Compliance Order for Dixico, Incorporated, Dallas County, Texas, December 7, 1984; March 1985". This evaluation is available at the addresses given previously in this Notice.

against Dixico for violations covered by the order during the period that the Order is in effect. Further, enforcement under the citizen suit provisions of section 304 of the Clean Air Act would be similarly precluded. If approved, the Order would constitute an addition to the Texas SIP. However, compliance with the Order will not preclude assessment of any noncompliance penalty under section 120 of the Clean Air Act, unless the source is entitled to an exemption under section 120(a)(2) (B) of (C).

All interested persons are invited to submit written comments on the proposed approval action. Written comments received by the date specified above will be considered in determining whether EPA will approve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order and the corresponding addition to 40 CFR Part 65.

This DCO affects only one entity and involves an "Order", rather than a "Rule", and therefore this action is not subject to the requirements of the Regulatory Flexibility Act or to Executive Order 12291.

This notice of proposed approval is issued under the authority of sections 113 and 301 of the Clean Air Act, 42 U.S.C. 7413 and 7601.

List of Subjects in 40 CFR Part 65

Air pollution control.

Dated: May 2, 1985.

Dick Whittington,

Regional Administrator, Region 6.

The text of the Delayed Compliance Order is set forth below. Final agency action on the order will be published in Subpart SS of Part 65 of Title 40 of the Code of Federal Regulations.

Texas Air Control Board, 6330 Highway 290 East, Austin, Texas

Board Order—Dixico, Inc.

[No. 84-12]

Whereas, Texas Air Control Board Rule 115.201 requires control of Volatile Organic Compound (VOC) emissions from rotogravure and flexographic processes; and

Whereas, Dixico, Incorporated at Dallas County (hereinafter referred to as Dixico) is a major stationary source of VOC's within the meaning of 40 CFR 65.01(d); and

Whereas, The VOC's emitted from the flexographic printing process at Dixico are subject to the requirements of Rule 115.201 of Regulation V of the Texas Air Control Board; and

Whereas, Rule 115.201 has been approved by the administrator of the Environmental Protection Agency (hereinafter referred to as EPA) pursuant to section 110 of the Federal Clean Air Act (42 U.S.C. 7410) as a requirement of the applicable implementation plan for Texas; and

Whereas, Texas Air Control Board Rule 115.203 requires that persons affected by Rule 115.201 to submit compliance schedules and that such persons be in compliance with the requirements of Rule 115.201 as soon as practicable but not later than December 31, 1982; and

Whereas, Texas Air Control Board Rule 115.422(b) allows the Texas Air Control Board to approve and extension of certain compliance dates, including that contained in Rule 115.203, to not later than December 31, 1985 based upon nonavailability of low solvent technology; and

Whereas, Dixico is unable to comply with the limits in Rule 115.201, except by shutting down the source listed above; however, Texas Air Control Board Order 81-7 dated August 14, 1981 extended the date for Dixico's compliance under said Rule to a time as soon as practicable but no later than December 31, 1985, pursuant to Rule 115.422(b) which was approved as a part of the applicable State Implementation Plan for Texas; and

Whereas, Dixico has submitted a revised compliance schedule which contains a request for an extension to not later than December 31, 1985; and

Whereas, such request contains the necessary justification for the extension to a date not later than December 31, 1985, based upon current nonavailability of necessary low solvent technology; and

Whereas, the Texas Air Control Board has examined said request and finds that the requirements for the extension have been satisfied; and

Whereas, the Texas Air Control Board gave notice to the public and to the EPA on October 14 that it proposed to issue the following Order to Dixico; and

Whereas, the public notice contained the content of the following Order, invited comment, and scheduled a public hearing; and

Whereas, a public hearing was held at the Dallas Public Library, 1515 Young Street, Dallas at 6:00 p.m. on November 14, 1984; and

Whereas, an investigation of all relevant facts, including public comment, has demonstrated that this Order requires compliance as expeditiously as practicable and that this Order requires the best practicable system of interim emission reduction; and

Whereas, the public interest in continued operation of the source listed above outweighs the environmental cost of the additional period of noncompliance provided in this Order because there are no discernible effects associated with the emissions from Dixico's flexographic printing operations, and strict compliance with such rule would require cessation of certain operations with attendant adverse economic effects for which there is insufficient corresponding environmental benefit; and

Whereas, the Texas Air Control Board has consulted with the Dallas Health Department, Dallas County Health Department and North Central Texas Council of Governments pursuant to section 121 of the Federal Clean Air Act (42 U.S.C. 7421); and

Whereas, Dixico asserts that it is in compliance with legal requirements and the actions of Dixico pursuant to this Order do not constitute an admission by Dixico of any violation of law or waiver by Dixico of the right to present any evidence and argument that it is in compliance with the requirements of law in any case, cause, controversy or court of law or equity; and

Whereas, Dixico is also seeking approval of an alternate means of control pursuant to section 115.401 in lieu of the emission controls otherwise required by Rule 115.201 and by this Order.

Now, therefore, it is the decision and order of the board that:

1. The date for compliance with Texas Air Control Board Rules 115.201 and 115.203 by Dixico is hereby extended to a time as soon as practicable but not later than December 31, 1985, in accordance with the following schedule for compliance:

Prior to December 31, 1984

—Order and install an Electrostatic Assist Unit for the gravure press to facilitate evaluation of low solvent technology.

—Order and install a Corona Treater of a flexographic press owned and operated by Dixico for the purpose of evaluating the effectivenes of the treater in combination with low solvent technology.

—Commerce performance evaluations of Aqua Lam P* water based ink and similar low solvent technology of flexographic presses.

—Evaluate market acceptance of products produced utilizing new low solvent technology.

—Convert to low solvent technology on all paper products run on flexographic presses.

Prior to March 1, 1985

—Continue performance and market evaluation on products produced with Aqua Lam P* and other low solvent technology.
—Continue evaluation of Corona Treater.
—Commence design of emission control equipment necessary to achieve compliance with the requirements of Rule 115.201(3).
—Continue evaluation of available low solvent technology of gravure press.

Prior to June 1, 1985

—Submit final plans for any emission control equipment necessary to achieve compliance with Rule 115.201(3) to the Executive Director of the TACB.
—Place orders for any emission control equipment necessary to achieve compliance with Rule 115.201(3).
—If evaluative tests indicate, place orders for Corona Treaters for the flexographic presses.
—Continue evaluation of low solvent technology.

Prior to August 1, 1985

—Commence installation of any control equipment necessary to achieve compliance with Rule 115.201(3).

Prior to December 31, 1985

—Achieve final compliance with 115.201.

*A trade name of Crown Zellerbach.

2. This Order is issued pursuant to the Texas Clean Air Act, Article 4477–5 V.A.C.S. This Order is intended to fulfill the requirements for a delayed compliance order provided for by section 113(d) of the Federal Clean Air Act 42 U.S.C. 7413(d). Upon approval by EPA and as long as Dixico is in compliance with the terms of this Order, this Order shall preclude federal enforcement action under section 113(d) of the Federal Clean Air Act (42 U.S.C. 7413(d)) and citizen suits against Dixico under section 304 of the Federal Clean Air Act (42 U.S.C 7604) with respect to the requirements for the source covered by this order.

3. Dixico shall take the following actions during the entire period in which this Order is in effect, as a means of achieving the best practicable interim system of emission reduction which is both reasonable and practicable:

a. Dixico shall comply with the limits in Rule 115.201 during any period insofar as it is able to do so.

b. Dixico shall comply with all lawful directives issued by the Texas Air Control Board, EPA, or any public health authority pursuant to the Texas Clean Air Act or the Federal Clean Air Act necessary to avoid an imminent and substantial endangerment to health of persons resulting from the emissions which are the subject of this Order.

4. Dixico shall comply with the following emissions monitoring and reporting requirements no later than the times indicated:

a. Commencing on December 31, 1984, Dixico shall submit on a quarterly basis, monthly summaries of production levels for its product lines and of VOC emissions from inks utilized in such production to demonstrate Dixico's progress toward compliance with Rule 115.201. Such quarterly submissions shall include sufficient information to demonstrate progress toward compliance on a twenty-four (24) hour (daily) basis.

5. All notices, reports, and documents which Dixico is required to file pursuant to this Order shall be submitted to Bill Stewart, Executive Director, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723. If the deadline for filing falls upon a Saturday, Sunday or holiday, the document must be filed on the next business day.

6. This Order supersedes Board Order No. 81–7 entered on August 14, 1981.

7. Nothing in the Order shall in any way limit or preclude Dixico from seeking and obtaining approval of an alternate method of control pursuant to TACB Rule 115.401 as a revision to the State Implementation Plan in lieu of demonstrating compliance with Rule 115.201 pursuant to this Order. In the event an alternate method is so approved as a revision to the State Implementation Plan, the provisions and requirements contained in such approval may be complied with in lieu of the provisions and requirements of Paragraph 1 of this Order.

Notice

Pursuant to the provisions of section 113(d)(1)(D) of the Federal Clean Air Act (42 U.S.C. 7413(d)(1)(E), Dixico is hereby notified that, unless excepted under section 120(a)(2) (B) or (C) of the Federal Clean Air Act (42 U.S.C. 7420(a)(2) (B) or (C), it may be required to pay a federal noncompliance penalty. This notice does not constitute a "notice of noncompliance" as that term is used in section 120(b)(3) of the Federal Clean Air Act (42 U.S.C. 7420(b)(3)) and 40 CFR 66.11.

Passed and approved at the regular meeting of the Texas Control Board at Austin, Texas, this 7th day of December, 1984.

Texas Air Control Board

By:
John L. Blair,
Chairman.
Charles R. Jaynes,
Vice Chairman.
Vittorio K. Argento, P.E.,
Member.
Bob G. Bailey,
Member (absent).
Fred Hartman,
Member.
D. Jack Kilian, M.D.,
Member.
Otto R. Kunze, Ph.D., P.E.,
Member.
R. Hal Moorman,
Member.
Hubert Oxford III,
Member.
Attest:
Bill Stewart, P.E.,
Executive Director.

[FR Doc. 85–11844 Filed 5–15–85; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 65

[A–6–FRL–2836–2]

Administrative Orders Permitting a Delay in Compliance With Texas State Implementation Plan Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed approval.

SUMMARY: The Environmental Protection Agency proposes to approve a Delayed Compliance Order (DCO) issued by the Texas Air Control Board (TACB) to Princeton Packaging, Incorporated (Princeton), Dallas, Dallas County, Texas, on December 7, 1984. The DCO requires Princeton to bring air emissions of volatile organic compounds from their flexographic printing processes into compliance with the Texas State Implementation Plan (SIP) by December 31, 1985. The SIP required compliance by December 31, 1982. Dallas County is presently not attaining the National Ambient Air Quality Standard for ozone. Because the order has been issued to a "major" stationary source and permits delay in compliance with the Texas SIP, the Clean Air Act requires it to be approved by EPA before it can become effective. If approved by EPA, the DCO will become an addition to the Texas SIP. In addition, a source in compliance with an approved DCO may not be sued under the federal enforcement or citizen suit

provisions of the Clean Air Act for violations of SIP provisions covered by the DCO. This notice invites public comment on EPA's proposed approval of the DCO.

DATE: Interested persons are invited to submit comments on the proposed action on or before June 17, 1985.

ADDRESSES: Written comments should be submitted to the following address: Air Branch, Air and Waste Management Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270.

The State order, supporting material, evaluation report and public comments received in response to this notice are available for inspection during normal business hours at the address above (as Docket Number R6–85–DCO–3) and at the following locations: Environmental Protection Agency, Public Information Reference Unit, Library Systems Branch, 401 M Street, SW., Washington, D.C. 20460, and the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

FOR FURTHER INFORMATION CONTACT: Stan R. Burger, Enforcement Section (6AW–AE), Air and Waste Management Division, Environmental Protection Agency, Region 6 Office, (214) 767–9868.

SUPPLEMENTARY INFORMATION: Princeton's Dallas facility was formerly owned by the St. Regis Corporation. Princeton Packaging, Incorporated, bought the Dallas facility from St. Regis effective October 1, 1984. To avoid ambiguity, "Princeton" will be used throughout this document to represent the Dallas facility.

On May 3, 1982 (47 FR 18857), EPA approved TACB regulation V, Rule 115.201, "Graphic Arts (Printing) By Rotogravure and Flexographic Processes in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant and Victoria Counties," as a revision to the Texas SIP.

Rule 115.201 prohibits operation of certain flexographic or rotogravure printing facilities unless they limit emissions of volatile organic compounds (VOC) by utilization of either water based inks, high solids content inks, or by the use of "add-on" control equipment such as carbon adsorption systems or incineration systems. Sources subject to the Rule were to have submitted a final control plan for compliance to the TACB by December 31, 1980, and were to be in compliance by December 31, 1982.

Princeton's Dallas plant is a "major" stationary source, which emits more than 100 tons of VOC per year from flexographic processes, and as such is subject to Rule 115.201. Based on Princeton's contention that water based and/or high solids content ink would not be available by the SIP compliance date, and that "add-on" control equipment was economically infeasible, on August 14, 1981, the TACB issued an order to Princeton extending their SIP compliance date until Decmeber 31, 1985. The TACB did not, however, submit the SIP compliance date extension to EPA for review as an extension to the SIP, and thus the SIP required compliance date remained December 31, 1982. On January 30, 1984, EPA notified Princeton under section 113(a)(1) of the Clean Air Act that they were operating in violation of the Texas SIP. Subsequently, the TACB developed the December 7, 1984, DCO that is now proposed for approval under this notice. The TACB transmitted the DCO to EPA on January 16, 1985. EPA has reviewed the DCO,[1] and found that it satisfies the requirements of section 113(d) of the Clean Air Act, including public notice and hearing requirements and section 121 of the Clean Air Act regarding consultation with general purpose local governments.

If the DCO is approved by EPA, compliance with its terms would preclude federal enforcement action under section 113 of the Clean Air Act against Princeton for violations covered by the order during the period that the order is in effect. Further, enforcement under the citizen suit provision of section 304 of the Clean Air Act would be similarly precluded. If approved, the Order would constitute an addition to the Texas SIP. However, compliance with the order will not preclude assessment of any noncompliance penalty under section 120 of the Clean Air Act, unless the source is entitled to an exemption under section 120(a)(2) (B) or (C).

All interested persons are invited to submit written comments on the proposed approval action. Written comments received by the date specified above will be considered in determining whether EPA will approve the order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the order and the corresponding addition to 40 CFR Part 65.

This DCO affects only one entity and involves an "Order", rather than a "rule", and therefore this action is not subject to the requirements of the Regulatory Flexibility Act or to Executive Order 12291.

This notice of proposed approval is issued under the authority of sections 113 and 301 of the Clean Air Act, 42 U.S.C. 7413 and 7601.

List of Subjects in 40 CFR Part 65

Air pollution control.

Dated: May 2, 1985.

Dick Whittington,

Regional Administrator, Region 6.

The text of the delayed Compliance order is set forth below. Final agency action on the order will be published in Subpart SS of Part 65 of Title 40 of the Code of Federal Regulations.

Texas Air Control Board, 6330 Highway 290 East, Austin, Texas

Board Order—Princeton Packaging, Inc.

[No. 84–14]

Whereas, Texas Air Control Board Rule 115.201 requires control of Volatile Organic Compound (VOC) emissions from rotogravure and flexographic processes; and

Whereas, Princeton Packaging, Inc., at Dallas County (hereinafter referred to as Princeton), as an assignee of St. Regis Corporation, owns and operates a flexographic printing process which constitutes a major stationary source of VOC's within the meaning of 40 CFR 65.01(d); and

Whereas, the VOC's emitted from the flexographic printing process at Princeton are subject to the requirements of Rule 115.201 of Regulation V of the Texas Air Control Board; and

Whereas, Rule 115.201 has been approved by the Administrator of the United States Environmental Protection Agency (hereinafter referred to as EPA) pursuant to Section 110 of the Federal Clean Air Act (42 U.S.C. 7410) as a requirement of the applicable State Implementation Plan for Texas; and

Whereas, Texas Air Control Board Rule 115.203 requires that persons affected by Rule 115.201 submit compliance schedules and that such persons be in compliance with the requirements of Rule 115.201 as soon as practicable but not later than December 31, 1982; and

Whereas, Texas Air Control Board Rule 115.422(b) allows the Texas Air Control Board to approve an extension of certain compliance dates, including that contained in Rule 115.203, to not later than December 31, 1985 based upon nonavailability of low solvent technology; and

[1] "EPA Review of Texas State Delayed Compliance Order for Princeton Packaging, Incorporated, Dallas County, Texas, December 7, 1984; March 1985". This evaluation is available at the addresses given previously in this Notice.

Whereas, Princeton is unable to comply with the limits in Rule 115.201, except by shutting down the source listed above, and Texas Air Control Board Order 81-9 dated August 14, 1981, extended the date for compliance under said Rule to a time as soon as practicable but no later than December 31, 1985, pursuant to Rule 115.422(b) which was approved as a part of the applicable State Implementation Plan for Texas; and

Whereas, Princeton has submitted a revised compliance schedule which contains a request for an extension to not later than December 31, 1985; and

Whereas, such request contains the necessary justification for the extension to a date not later than December 31, 1985, based upon current nonavailability of necessary low solvent technology; and

Whereas, the Texas Air Control Board has examined said request and finds that the requirements for the extension have been satisfied; and

Whereas, the Texas Air Control Board gave notice to the public and to EPA on October 14, 1984 that it proposed to issue the following Order to Princeton; and

Whereas, the public notice contained the content of the following Order, invited comment, and scheduled a public hearing; and

Whereas, a public hearing on the proposal was held on November 14, 1984 at the Dallas Public Library; and

Whereas, an investigation of all relevant facts, including public comment, has demonstrated that this Order requires compliance as expeditiously as practicable and that this Order requires the best practicable system of interim emission reduction; and

Whereas, the public interest in continued operation of the source listed above outweighs the environmental cost of the additional period of noncompliance provided in this order because there are no discernible effects associated with the emissions from Princeton's flexographic printing operations which exceed the level of emissions allowed under Rule 115.201, and strict compliance with such rule would require cessation of certain operations with attendant adverse economic effects for which there is insufficient corresponding environmental benefit; and

Whereas, the Texas Air Control Board has consulted with the Dallas Health Department, Dallas County Health Department and North Central Texas Council of Governments pursuant to Section 121 of the Federal Clean Air Act (42 U.S.C. 7421); and

Whereas, Princeton asserts that it is in compliance with legal requirements and the actions of Princeton pursuant to this Order do not constitute an admission by Princeton of any violation of law or waiver by Princeton of the right to present any evidence and argument that it is in compliance with the requirements of law in any case, cause, controversy or court of law or equity; and

Whereas, Princeton is also seeking approval of an alternate means of control pursuant to Section 115.401 in lieu of the emission controls otherwise required by Rule 115.201 and by this Order.

Now, therefore, it is the decision and order of the board that:

I

The date for compliance with Texas Air Control Board Rules 115.201 and 115.203 by Princeton is hereby extended to a time as soon as practicable but not later than December 31, 1985 in accordance with the following schedule for compliance:

1. By December 31, 1984, complete review of available incinerators and issue report.

2. By March 31, 1985, complete preliminary engineering study and report recommended type of incinerator(s) to be installed and installation requirements.

3. By May 30, 1985, issue purchase order for incinerator(s).

4. By September 30, 1985, begin installation of incinerator(s).

5. By December 1, 1985, complete installation and begin operation of incinerator(s) that comply with Section 115.201(3) of TACB Regulation V.

6. By December 31, 1985, complete shakedown of incinerator(s) and achieve full compliance with Section 115.201(3) of TACB Regulation V.

II

This Order is issued pursuant to the Texas Clean Air Act, Article 4477-5 V.A.C.S. This Order is intended to fulfill the requirements for a Delayed Compliance Order provided for by Section 113(d) of the Federal Clean Air Act [42 U.S.C. 7413(d)]. Upon approval by EPA and as long as Princeton is in compliance with the terms of this Order, this Order shall preclude federal enforcement action under Section 113(d) of the Federal Clean Air Act [42 U.S.C. 7413(d)] and citizen suits against Princeton under Section 304 of the Federal Clean Air Act (42 U.S.C. 7604) with respect to the requirements for the operations covered by this Order.

III

Princeton shall take the following actions during the entire period in which this Order is in effect, as a means of achieving the best practicable interim system of emission reduction which is both reasonable and practicable:

1. Princeton shall comply with the limits in Rule 115.201 during any period insofar as it is able to do so.

2. Princeton shall comply with all lawful directives issued by the Texas Air Control Board, EPA or any public health authority pursuant to the Texas Clean Air Act or the Federal Clean Air Act necessary to avoid an imminent and substantial endangerment to health of persons resulting from the emissions which are the subject of this Order.

IV

Princeton shall comply with the following emissions monitoring and reporting requirements no later than the times indicated:

1. Commencing on December 31, 1984, Princeton shall submit on a quarterly basis, monthly summaries of production levels for its product lines and of VOC emissions resulting from such production to demonstrate Princeton's progress toward compliance with Rule 115.201. Such quarterly submissions shall include sufficient information to demonstrate progress toward compliance on an average twenty-four (24) hour (daily) basis.

V

All notices, reports, and documents which Princeton is required to file pursuant to this Order shall be submitted to Bill Stewart, Executive Director, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723. If the deadline for filing falls upon a Saturday, Sunday or holiday, the document must be filed on the next business day.

VI

This Order supersedes Board Order No. 81-9 entered on August 14, 1981.

VII

Nothing in the Order shall in any way limit or preclude Princeton from seeking and obtaining approval of an alternate method of control pursuant to TACB Rule 115.401 as a revision to the State Implementation Plan in lieu of demonstrating compliance with Rule 115.201 pursuant to this Order. In the event an alternate method is so approved as a revision to the State Implementation Plan, the provisions and requirements contained in such approval may be complied with in lieu

of the provisions and requirements of Section I.

Notice

Pursuant to the provisions of Section 113(d)(1)(D) of the Federal Clean Air Act [42 U.S.C. 7413(d)(1)(E)], Princeton is hereby notified that, unless excepted under Section 120(a)(2) (B) or (C) of the Federal Clean Air Act [42 U.S.C. 7420(a)(2) (B) or (C)], it may be required to pay a federal noncompliance penalty. This notice does not constitute a "notice of noncompliance" as that term is used in Section 120(b)(3) of the Federal Clean Air Act [42 U.S.C. 7420(b)(3) and 40 CFR 66.11].

Passed and approved at the regular meeting of the Texas Air Control Board in Austin, Texas, this the 7th day of December, 1984.

Texas Air Control Board

By:
John L. Blair,
Chairman.
Charles R. Jaynes,
Vice Chairman.
Vittorio K. Argento, P.E.,
Member.
Bob G. Bailey,
Member (absent).
Fred Hartman,
Member.
D. Jack Kilian, M.D.,
Member.
Otto R. Kunze, Ph.D., P.E.,
Member.
R. Hal Moorman,
Member.
Hubert Oxford III,
Member.
Attest:
Bill Stewart, P.E.,
Executive Director.

[FR Doc. 85-11843 Filed 5-15-85; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 65

[A-6-FBL-2836-6]

Administrative Orders Permitting a Delay in Compliance With Texas State Implemenation Plan Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed approval.

SUMMARY: The Environmental Protection Agency proposes to approve a Delayed Compliance Order (DCO) issued by the Texas Air Control Board (TACB) to Printpack, Incorporated (Printpack), Grand Prairie, Tarrant County, Texas, on November 9, 1984. The DCO requires Printpact to bring air emission of volatile organic compounds from their flexographic printing processes into compliance with the Texas State Implementation Plan (SIP) by December 31, 1985. The SIP required compliance by December 31, 1982. Tarrant County is presently not attaining the National Ambient Air Quality standard for ozone. Because the Order has been issued to a "major" stationary source and permits delay in compliance with the Texas SIP, the Clean Air Act requires it to be approved by EPA before it can become effective. If approved by EPA, the DCO will become an addition to the Texas SIP. In addition, a source in compliance with an approved DCO may not be sued under the federal enforcement of citizen suit provisions of the Clean Air Act for violations of SIP provisions covered by the DCO. This notice invites public comment on EPA's proposed approval of the DCO.

DATE: Interested persons are invited to submit comments on the proposed action on or before June 17, 1985.

ADDRESSES: Written comments should be submitted to the following address: Air Branch, Air And Waste Management Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270.

The State order, supporting material, evaluation report and public comments received in response to this notice are available for inspection during normal business hours at the address above (as Docket number R6-85-DCO-1) and at the following locations: Environmental Protection Agency, Public Information Reference Unit, Library Systems Branch, 401 M Street SW., Washington, D.C. 20460, and the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

FOR FURTHER INFORMATION CONTACT: Richard Raybourne, Enforcement Section (6AW-AE), Air and Waste Management Division, Environmental Protection Agency, Region 6 Office, (214) 767-5145.

SUPPLEMENTARY INFORMATION: On May 3, 1982 (47 FR 18857), EPA approved TACB Regulation V, Rule 115.201, "Graphic Arts (Printing) By Rotogravure and Flexographic Processes in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant and Victoria Counties", as a revision to the Texas SIP. Rule 115.201 prohibits operation of certain flexographic or rotogravure printing facilities unless they limit emissions of volatile organic compounds (VOC) by utilization of either water based inks, high solids content inks, or by the use of "add-on" control equipment such as carbon adsorption systems or incineration systems. Sources subject to the Rule were to have submitted a final control plan for compliance to the TACB by December 31, 1980, and were to be in compliance by December 31, 1982. Printpack's Grand Prairie plant is a "major" stationary source, which emits more than 100 tons of VOC per year from flexographic processes, and as such is subject to Rule 115.201. Based on Printpack's contention that water based and/or high solids content ink would not be available by the SIP compliance date and that "add-on" control equipment was economically infeasible, on August 14, 1981, the TACB issued an order to Printpack extending their SIP compliance date until December 1, 1985. The TACB did not, however, submit the SIP compliance date extension to EPA for review as a revision to the SIP, and thus the SIP required compliance date remained December 31, 1982. On January 30, 1984, EPA notified Printpack under sertion 113(a)(1) of the Clean Air Act that they were operating in violation of the Texas SIP. Subsequently, the TCAB developed the November 9, 1984 DCO that is now proposed for approval under this notice. The TACB transmitted to DCO to EPA on December 18, 1984. EPA reviewed the DCO,[1] and found that it satisfies the requirements of section 113(d) of the Clean Air Act, including public notice and hearing requirements and section 121 of the Clean Air Act regarding consultation with general purpose local governments.

If the DCO is approved by EPA, compliance with its terms would preclude federal enforcement action under section 113 of the Clean Air Act against Printpack for violations covered by the order during the period that the order is in effect. Further, enforcement under the citizen suit provision of section 304 of the Clean Air Act would be similarly precluded. If approved, the Order would constitute an addition to the Texas SIP.

However, compliance with the Order will not preclude assessment of any noncompliance penalty under section 120 of the Clean Air Act, unless the source is entitled to an exemption under section 120(a)(2) (B) or (C). The Notice in the DCO regarding the assessment of section 120 noncompliance penalties may be misleading. As the Clean Air Act clearly states, a major stationary source in the position of Printpack,

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[1] "EPA Review of Texas State Delayed Compliance Order for Printpack, Incorporated, Tarrant County, Texas, November 9, 1984; January, 1985". This evaluation is available at the Region 6 address given previously in this notice.

unless exempted under section 120 (a)(2)(B) or (C), is subject to noncompliance penalties after December 31, 1982. If the DCO is approved, a footnote to this effect will be included in the approval listing in Part 65 of 40 CFR.

All interested persons are invited to submit written comments on the proposed approval action. Written comments received by the date specified above will be considered in determining whether EPA will approve the Order. After the public comment period, the Administrator or EPA will publish in the Federal Register the Agency's final action on the Order and the corresponding addition to 40 CFR Part 65.

This DCO affects only one entity and involves an "Order", rather than a "Rule", and therefore this action is not subject to the requirements of the Regulatory Flexibility Act or to Executive Order 12291.

This Notice of Proposed Approval is issued under the authority of sections 113 and 301 of the Clean Air Act, 42 U.S.C. 7413 and 7601.

List of Subjects in 40 CFR Part 65

Air pollution control.

Dated: May 2, 1985.

Dick Whittington,

Regional Administrator, Region 6.

The text of the Delayed Compliance Order is set forth below. Final agency action on the Order will be published in Subpart SS of Part 65 of Title 40 of the Code of Federal Regulations.

Texas Air Control Board, 6330 Highway 290 East, Austin, Texas

Board Order—Printpack, Inc.

[No. 84-10]

Whereas, Texas Air Control Board Rule 115.201 requires control of Volatile Organic Compound (VOC) emissions from rotogravure and flexographic processes; and

Whereas, Printpack, Inc. at Tarrant County (hereinafter referred to as Printpack) is a major stationary source of VOC's within the meaning of 40 CFR 65.01(d)); and

Whereas, the VOC's emitted from the flexographic printing process at Printpack are subject to the requirements of Rule 115.201 of Regulation V; and

Whereas, Rule 115.201 has been approved by the administrator of the Environmental Protection Agency (hereinafter referred to as EPA) pursuant to section 110 of the Federal Clean Air Act (42 U.S.C. 7410) as a requirement of the applicable implementation plan for Texas; and

Whereas, Texas Air Control Board Rule 115.203 requires that persons affected by Rule 115.201 submit compliance schedules and that such persons be in compliance with the requirements of Rule 115.201 as soon as practicable but not later than December 31, 1982; and

Whereas, Texas Air Control Board Rule 115.422(b) allows the Texas Air Control Board to approve an extension of certain compliance dates, including that contained in Rule 115.203, to not later than December 31, 1985, based upon nonavailability of low solvent technology; and

Whereas, Printpack is unable to comply with the limits in Rule 115.201, except by shutting down the source listed above; however, Texas Air Control Board Order 81-10 dated August 14, 1981, extended the date for Printpack's compliance under said Rule to no later than December 1, 1985, pursuant to Rule 115.422(b); and

Whereas, Printpack has submitted a compliance schedule which contains a request for an extension to not later than December 31, 1985; and

Whereas, such request contains the necessary justification for the extension to a date not later than December 31, 1985, based upon current nonavailability of necessary low solvent or water-based technology; and

Whereas, the Texas Air Control Board has examined said request and finds that the requirements for the extension have been satisfied; and

Whereas, the Texas Air Control Board gave notice to the public and to the EPA on September 11, 1984, that it proposed to issue the following Order to Printpack; and

Whereas, the public notice contained the content of the following Order, invited comment, and offered the opportunity for a public hearing; and

Whereas, a public hearing was held on October 11, 1984 at Grand Prairie, Dallas County, Texas; and

Whereas, an investigation of all relevant facts, including public comment, has demonstrated that this Order requires compliance as expeditiously as practicable and that this Order requires the best practicable system of interim emission reduction; and

Whereas, the Texas Air Control Board had consulted with the Grand Prairie Health Department, Tarrant County Health Department and North Central Texas Council of Governments pursuant to section 121 of the Federal Clean Air Act (42 U.S.C. 7421); and

Whereas, the public interest in continued operation of the source listed above outweighs the environmental cost of the additional period of noncompliance provided in this Order because there are no discernible effects associated with the emissions from Printpack's flexographic printing operations which exceed the level of emissions allowed under Rule 115.201, and strict compliance with such rule would require cessation of certain operations with attendant adverse economic effects for which there is insufficient corresponding environmental benefit.

Now, therefore, it is the decision and order of the Board that:

1. The date for compliance with Texas Air Control Board Rules 115.201 and 115.203 by Printpack is hereby extended to a time not later than December 31, 1985, in accordance with the following schedule for compliance:

November 2, 1984 Use complying material for 25% of press formulations on a weight percent basis per month.

and

Complete trials of water-based white formulation on all presses.

and

Complete initial trials of potential water-based colored inks (in Atlanta).

December 31, 1984 Use complying material for 50% of press formulations on a weight percent basis per month.

and

Complete development of a predictive computer program for scheduling use of formulations in compliance with Rule 115.201(1) by utilizing a daily weighted average of volatile organic compound emissions.

and

Order additional electrostatic treaters if needed.

If any of the above three actions is not accomplished by December 31, 1984 begin design of add-on control devices capable of meeting the requirements of Rule 115.201(3).

May 31, 1985 Complete trial of water-based color formulation on all presses.

and

Order complying add-on control devices if development program does not indicate compliance by December 31, 1985, using low solvent or water-based technology.

June 30, 1985 Use complying material for 75% of press formulation

(referring to both white and color inks) on a daily weighted average.

December 31, 1985 The volatile fraction of press formulations, as applied to the substrate, shall contain 25% by volume or less of VOC solvent and 75% by volume or more of water on a daily weighted average.

or

Complete installation of add-on control devices in compliance with Rule 115.201(3).

2. This Order is issued pursuant to the Texas Clean Air Act, Article 4477–5 V.A.C.S. This Order is intended to fulfill the requirements for a Delayed Compliance Order provided for by Section 113 of the Federal Clean Air Act (42 U.S.C. 7413). Upon approval by EPA and as long as Printpack is in compliance with the terms of this Order, this Order shall preclude federal enforcement action under section 113 of the Federal Clean Air Act (42 U.S.C. 7413) and citizen suits against Printpack under section 304 of the Federal Clean Air Act (42 U.S.C. 7604) with respect to the requirements for the source covered by this Order.

3. Printpack shall take the following actions during the entire period in which this Order is in effect, as a means of achieving the best interim system of emission reduction which is both reasonable and practicable:

a. Printpack shall continue to work with its suppliers to attempt to develop compliant formulations which can be utilized earlier than is provided under the above schedule.

b. Printpack shall comply with the limits in Rule 115.201 during any period insofar as it is able to do so.

c. Printpack shall comply with all lawful directives issued by the Texas Air Control Board, EPA, or any public health authority pursuant to the Texas Clean Air Act or the Federal Clean Air Act necessary to avoid an imminent and substantial endangerment to health of persons resulting from the emissions which are the subject of this Order.

4. Printpack shall comply with the following emissions monitoring and reporting requirements no later than the times indicated.

a. Printpack shall submit quarterly, starting on December 31, 1984, monthly summaries of the amount of each press formulation used and by June 30, 1985, to include daily weighted averages for all press formulations if Printpack plans at that time to achieve compliance through low solvent or water-based technology.

b. Printpack shall submit at the same time quarterly reports on its review and evaluation of low solvent or water-based press formulations.

5. All notices, reports, and documents which Printpack is required to file pursuant to this Order shall be submitted to Bill Stewart, Executive Director, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723. If the deadline for filing falls upon a Saturday, Sunday or holiday, the document must be filed on the next business day.

6. No statement or assertion underlying this Order or any commitments herein or actions taken by Printpack hereunder, shall, under any circumstances, constitue evidence of or be construed as an admission by Printpack of any wrongdoing or violation of law or breach of duty in any case, cause, controversy, or court of law or equity.

7. This Order supersedes Board Order No. 81–10 entered on August 14, 1981.

8. Nothing in this Order shall in any way limit or preclude Printpack from seeking and obtaining approval of a transaction pursuant to TACB Rule 101.23 (Alternate Emission Reduction Policy), and EPA's Controlled Trading Policy as in effect at the time any such transaction is submitted to EPA as a revision to the State Implementation Plan in lieu of demonstrating compliance with Rule 115.201 pursuant to this Order.

9. Nothing in the Order shall in any way limit or preclude Printpack from seeking and obtaining approval of an alternate method of control pursuant to TACB Rule 115.401 as a revision to the State Implementation Plan in lieu of demonstrating compliance with Rule 115.201 pursuant to this Order.

Notice

Pursuant to the provisions of section 113(d)(1)(E) of the Federal Clean Air Act [42 U.S.C. 7413(d)(1)(E)], Printpack is hereby notified that, unless excepted under section 120(a)(2) (B) or (C) of the Federal Clean Air Act, if it fails to achieve full compliance by December 31, 1985, it may be required to pay a noncompliance penalty. This Notice does not constitute a "notice of noncompliance" as that term is used in section 120(b)(3) of the Federal Clean Air Act (42 U.S.C. (B)(3)) and 40 CFR 66.11.

Passed and approved at the regular meeting of the Texas Air Control Board in Austin, Texas on this the 9th day of November, 1984.

Texas Air Control Board

By:

John L. Blair,
Chairman.

Charles R. Jaynes,
Vice Chairman.

Vittorio K. Argento, P.E.,
Member (absent).

Bob G. Bailey,
Member.

Fred Hartman,
Member.

D. Jack Kilian, M.D.,
Member.

Otto R. Kunze, Ph.D., P.E.,
Member.

R. Hal Moorman,
Member.

Hubert Oxford III,
Member.

Attest:

Bill Stewart, P.E.,
Executive Director.

[FR Doc. 85–11845 Filed 5–15–85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 56, 58, 107, 108, 109, 111, and 174

[CGD 83–071a]

Mobile Offshore Drilling Unit Requirements; Extension of Comment Period

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: This notice extends the comment period on the advance notice of proposed rulemaking that would revise the Coast Guard mobile offshore drilling unit requirements. The extension was requested by two commentors, both of whom are industry associations. Both commentors cited the broad scope of this regulatory initiative and their difficulty in providing meaningful responses within the original 90 day comment period. Once commentor requested a six month extension and one commentor requested a three month extension. Because of these requests for additional time to comment on the advance notice of proposed rulemaking, the deadline for receipt of comments is extended to September 23, 1985.

DATE: The comment period on the advance notice of proposed rulemaking is extended to September 23, 1985.

ADDRESS: Comment should be mailed to the Commandant (G-CMC/21) (CGD 83-071a), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593. Between the hours of 8 a.m. and 4 p.m. Monday through Friday except holidays, comments may be delivered to, and are available for inspection and copying at, the Marine Safety Council (G-CMC/21), Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC, (202) 426-1477.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Anthony Dupree, Jr., Office of Merchant Marine Safety, G-MVI-4, (202) 426-2307.

SUPPLEMENTARY INFORMATION: This advance notice of proposed rulemaking was published on March 25, 1985, in the Federal Register (50 FR 11741).

May 13, 1985.

Clyde T. Lusk Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 85-11871 Filed 5-15-85; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Endangered and Threatened Status for the Piping Plover

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of comment period.

SUMMARY: The Service gives notice that the comment period on the proposed determination of endangered and threatened status for the piping plover is reopened. This bird is found on the Atlantic and Gulf coasts, Great Lakes, and northern Great Plains. The reopening of the comment period will allow comments on this proposal to be submitted from all interested persons.

DATES: The comment period on the proposal is reopened. The comment period, which originally closed on January 7, 1985, then extended to January 28, 1985, and extended again to March 29, 1985, now closes June 17, 1985.

ADDRESSES: Written comments and materials should be sent to the Endangered Species Coordinator, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Comments and materials will be available for public inspection during business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: For further information on the comment period, contact James M. Engel, Endangered Species Coordinator, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612/725-3276 or FTS 725-3276).

SUPPLEMENTARY INFORMATION:

Background

The piping plover (*Charadrius melodus*) is a small shorebird that nests on beaches of the Atlantic coast from Newfoundland to North Carolina, along the shores of the Great Lakes and saline wetlands of the northern Great Plains and on sandbars in rivers of the Upper Missouri River system. The species winters along the Gulf coast and Atlantic coast from South Carolina to Florida, and the Bahamas and Greater Antilles. The Service has information that the species is endangered and threatened by human disturbance, habitat destruction, alteration of natural river dynamics, and unfavorable plant succession. In the **Federal Register** of November 8, 1984 (49 FR 44712), the Service proposed determination of endangered status for the piping plover in the Great Lakes watershed and threatened status throughout the remainder of its range. The period for submission of public comments on the proposal was originally scheduled to last until January 7, 1985, and then extended to January 28, 1985, and again extended to March 29, 1985.

Section 4(b)(5)(E) of the Endangered Species Act of 1973, as amended, requires that a public hearing be held, if requested within 45 days of the publication of a proposed rule. The Service originally received requests within the 45-day period from Tom Pitts & Associates, Consulting Engineers, Loveland, Colorado (on behalf of the Colorado-Nebraska-Wyoming Interstate Task Force on Endangered Species (comprised of the Colorado Water Congress, Nebraska Water Resources Association, and the Wyoming Water Development Association)); Warren G. White, natural resource advisor at the Office of the Governor of Wyoming; Colorado Water Congress; Davis, Graham & Stubbs (on behalf of the Northern Colorado Water Conservancy District); Colorado Water Conservation Board; Nebraska Water Resources Association; and the Board of Water Commissioners of the City and County of Denver. They requested public hearings in Colorado, Nebraska, and Wyoming and a 60-day extension of the comment period.

The Audubon Society of Omaha, Nebraska; the Central Nebraska Public Power and Irrigation District; and Cook & Kopf, P.C., Lexington, Nebraska (on behalf of the Central Platte Natural Resources District) requested a public hearing be held in Nebraska. The Central Nebraska Public Power and Irrigation District also requested a 60-day extension of the comment period. The Wyoming Water Development Association requested a public hearing be held in Wyoming. Notice of public hearing and reopening of the comment period was published in the **Federal Register** on December 31, 1984 (49 FR 50748). The public hearing was held on January 18, 1985, at the Peter Kiewit Conference Center, Omaha, Nebraska. The comment period was extended until January 28, 1985.

After the 45-day public hearing request period had ended on December 24, 1985, the Service received requests for public hearings and a 60-day extension of the comment period from the Central Colorado Water Conservancy District; Nebraska Rural Electric Association; Niobrara River Basin Development Association, Ainsworth, Nebraska; The Republican Valley Conservation Association, McCook, Nebraska; Board of Public Utilities, Casper, Wyoming; James W. Sanderson of Saunders, Snyder, Ross & Dickson, P.C., Denver, Colorado (on behalf of the legal committee of the Colorado Water Congress' Special Project on Endangered Species); and U.S. Representative Virginia Smith, 3d District, Nebraska. Notice of a second public hearing and reopening of the comment period was published in the **Federal Register** on January 29, 1985 (50 FR 3940). The second public hearing was held on February 27, 1985, at the Denver City Council Chambers, Denver, Colorado. The comment period was extended until March 29, 1985.

On April 15, 1985, the Service received a request for an additional 60-day comment period on the proposed listing of the piping plover and interior least tern (proposed as endangered on May 29, 1984; 49 FR 22444) from Janes W. Sanderson of Saunders, Snyder, Ross & Dickson, P.C., Denver, Colorado (on behalf of the legal committee of the Colorado Water Congress' Special Project on Threatened and Endangered Species).

Mr. Sanderson stated:

> The U.S. Fish & Wildlife Service, at the February 27, 1985 Public Hearing held in Denver regarding the listing of the Piping Plover as an endangered or threatened

species, presented a number of graphs, including the mean annual flows of the Platte River near Overton, Nebraska (copy attached). That graph [Fig. 24B *in* Williams, G.P. 1978. The case of the shrinking channels—the North Platte and Platte Rivers in Nebraska. U.S. Geol. Surv. Circ. 781. 48 pp.] was used to purportedly demonstrate alteration of flows and, therefore, the habitat of the Piping Plover. The graphs were not made available to us prior to that hearing. Therefore, subsequent to the hearing we undertook to verify the accuracy of the graph. We have not concluded that analysis, but it appears that the graphs presented at the hearing, particularly with respect to average mean annual flows, do not accurately depict the facts and the flows of the Platte River near Overton, Nebraska.

Mr. Sanderson also sent to the Service a graph, depicting mean annual flows at the Platte River near Overton, Nebraska, from 1917 to 1980, which he stated "suggested the lack of any downward trend" in flows. He stated: "The point is that graphics which the U.S. Fish & Wildlife Service decision makers have is misleading and a thorough review is necessary. Secondly, the need for a precipitous decision based on alleged deteriorating conditions simply does not exist. The verification of the hydrologic data is critical to any action that the U.S. Fish & Wildlife Service may take with respect to the above-proposed listing."

Although the piping plover is not believed to occur in Colorado or Wyoming, tributaries of the Platte River, Nebraska, where the species does occur, extend into Colorado and Wyoming. Water user organizations are concerned about the proposed listing in view of water development in the South Platte River, Colorado, and the North Platte River, Wyoming.

Therefore, the Service reopens the public comment period only on the proposed listing of the piping plover for 30 days. Written comments may be submitted until June 17, 1985, to the Service office in the **ADDRESSES** section. The Service will accept comments on the proposed listing of the piping plover relative to any part of the bird's range, and any particular information concerning:

1. Biological, commerical, trade, or other relevant data concerning any threat (or lack thereof) to the piping plover;

2. The location of any additional populations of the piping plover and the reasons why any habitat of this species should or should not be determined to be critical habitat as provided by Section 4 of the Act;

3. Additional information concerning the range and distribution of the species; and

4. Current or planned activities that may adversely modify the habitat of this bird.

Author

The author of this notice is John G. Sidle, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612–725–3276 or FTS 725–3276).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Publ L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: May 10, 1985.

Gerald R. Lowry,

Acting Regional Director.

[FR Doc. 85–11883 Filed 5–15–85; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Parts 32 and 33

Addition of Twenty National Wildlife Refuges to the Lists of Open Areas for Migratory Game Bird Hunting, Upland Game Hunting, Big Game Hunting, and/or Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to add twenty national wildlife refuges to the lists of open areas for migratory game bird hunting, upland game hunting, big game hunting, and/or sport fishing. The Secretary of the Interior believes that this action would be in accordance with the provisions of all applicable laws, would be consistent with the principles of sound wildlife management, and would otherwise be in the public interest. The Secretary further believes that such uses would be compatible with, and in some cases enhance, the major purposes for which each refuge was established. The hunting of migratory game birds, upland game and big game, and/or sport fishing would provide additional public recreational opportunities.

DATE: Comments must be received on or before June 17, 1985.

ADDRESS: Comments may be addressed to Associate Director—Wildlife Resources, U.S. Fish and Wildlife Service, 18th and C Streets, NW, Room 3252, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: James F. Gillett, Division of Refuge Management, U.S. Fish and Wildlife Service, 18th and C Streets, NW, Room 2343, Washington, D.C. 20240; Telephone (202) 343–4311.

SUPPLEMENTARY INFORMATION: National wildlife refuges are closed to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the major purposes for which refuge areas were established, and that funds are available for development, operation, and maintenance of a hunting or fishing program. The action also must be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound wildlife management, and must otherwise be in the public interest. This rulemaking proposes to open twenty refuges to hunting and/or sport fishing. Some of the hunting and fishing programs that are proposed require refuge-specific hunting or fishing regulations. These regulations are also included in this rulemaking.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. It is, therefore, the purpose of this proposed rulemaking to seek public input regarding the opening of the refuges cited below to migratory bird, upland game or big game hunting, and/or sport fishing. Accordingly, interested persons may submit written comments, suggestions, or objections concerning this propsal to the Associate Director—Wildlife Resources (address above) by the end of the comment period. All relevant comments will be considered by the Department prior to issuance of a final rule.

Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, section 4(d)(1)(A) of the Refuge Administration Act authorizes the Secretary to permit the use of any area within the Refuge System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when he determines that such uses are compatible with the major purposes for which such areas were established. The

compatibility determination for each refuge affected by this rulemaking is discussed below.

The Refuge Recreation Act gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the areas were established. In addition, opening refuges to hunting or fishing under the Refuge Recreation Act requires that the Secretary shall determined that funds be made available for the development, operation, and maintenance of these permitted forms of recreation prior to initiating such uses of refuge areas.

Executive Orders 1014 and 5316 and Proclamation 2416 recognized that on a number of refuges, including Back Bay National Wildlife Refuge (NWR), Cedar Keys NWR, Pelican Island NWR, Tybee NWR, Union Slough NWR, and Wolf Island NWR, public taking of game was not allowed "except as permitted" by the Secretary through regulations. Thus, authority to open these refuges by regulation predates the Refuge Recreation Act.

In accordance with the Refuge Administration Act and the Refuge Recreation Act, the Secretary of the Interior believes that the proposed openings for hunting and fishing would be appropriate under applicable Executive Orders and compatible and consistent with the primary purposes for which each of the refuges listed below was established. The hunting and fishing programs would be consistent with State and Federal (migratory game bird) regulatory frameworks which are developed specifically to ensure conservation of fish and wildlife populations. A discussion of the compatibility of the hunting and fishing programs with the purposes for which each refuge was established and the availability of funding for each program follows:

Back Bay NWR was established in 1938 by Executive Order 7907 as "a refuge and breeding ground for migratory birds and other wildlife." The Service proposes to open the refuge to big game hunting. Currently, white-tailed deer populations exceed the carrying capacity of the refuge's habitat. This has led to habitat damage and a documented parasite problem within the refuge deer herd. In addition, feral hogs are present in sufficient numbers on the refuge that they are also destroying valuable wildlife habitat. Refuge hunting would be regulated to allow only the taking of white-tailed deer and feral hogs, and a refuge permit would be required to limit the number of hunters on the refuge. Time and space zoning would be implemented to ensure that the hunting program would not interfere with the management of other refuge wildlife. Since national wildlife refuges are established primarily to safeguard wildlife populations and their habitats, and are not intended to be "safe havens" for individual animals, the use of hunting as a management tool would be in keeping with refuge purposes to conserve wildlife populations and habitats. Controlling refuge deer and hog populations would ensure the preservation and enhancement of habitat for breeding birds and other wildlife, and would occur at a time of year so as not to disturb nesting birds. For these reasons, the opening of Back Bay NWR to big game hunting would be an appropriate exercise of Secretarial power under Proclamation 2416, would further the purposes for which the refuge was established, and would be in compliance with the Refuge Administration Act. The estimated annual cost to administer the hunting program would be approximately $8,900. Within the annual refuge budget of approximately $442,000, the necessary funds would be available for the administration of the proposed hunting program. Therefore, the opening of Back Bay NWR to big game hunting would be in compliance with the Refuge Recreation Act.

Bogue Chitto NWR was established in 1980 by Pub. L. 96–288 to preserve bottomland hardwood habitat and its associated wildlife, and for wildlife-oriented recreation and education. The Service proposes to open the recently-acquired Mississippi portion of the refuge to migratory bird, upland game, and big game hunting. The Louisiana portion of the refuge is currently open to these activities. Time and space zoning and other refuge-specific regulations would be implemented to ensure that hunting would not interfere with other refuge wildlife programs; these measures have proven effective on the Louisiana portion of the refuge. In addition, opening the Mississippi portions of the refuge to hunting would contribute toward accomplishment of one of the refuge's primary purposes by making the area available to hunting, an important form of outdoor recreation. For these reasons, the opening of Bogue Chitto NWR to migratory bird, upland game, and big game hunting would enhance the purposes for which the refuge was established and would be in compliance with the Refuge Administration Act. The estimated annual cost to administer the hunting program would be less than $16,000. Within the annual refuge budget of approximately $170,000, the necessary funds would be available for the administration of the proposed hunting program. Therefore, the opening of Bogue Chitto NWR to migratory bird, upland game, and big game hunting would be in compliance with the Refuge Recreation Act.

Bon Secour NWR was established in 1980 by Pub. L. 96–267 to preserve coastal barrier island habitat for migratory birds and threatened and endangered wildlife, and to provide wildlife-oriented recreation. The Service proposes to open the refuge to sport fishing. The proposed fishing activity would permit continuation of recreational uses which have occurred, with no adverse impacts, since long before the refuge was established. This activity would involve fishing in two small freshwater lakes on the refuge. Boats with gasoline-powered motors would be prohibited from these waters. Refuge fishing would be in accordance with State regulations which ensure the conservation of the fishery resource. A Section 7 evaluation indicated that threatened and endangered wildlife species woudl not be adversely impacted by the proposed fishing program. Accomplishment of one of the refuge's primary purposes would be enhanced by making the area available to an important form of outdoor recreation. For these reasons, the opening of Bon Secour NWR to sport fishing would be in compliance with the Refuge Administration Act. The estimated annual cost to administer the fishing program would be approximately $500. Within the annual refuge budget of approximately $50,000, the necessary funds would be available for the administration of the proposed fishing program. Therefore, the opening of Bon Secour NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Buenos Aires NWR was established in 1985 under authority of the Endangered Species Act, as amended (16 U.S.C. 1531), to provide protected and managed habitat for the endangered masked bobwhite quail. The Service owns 21,258 acres of the 118,694-acre refuge. Eventually, cooperative agreements, leases, and easements will allow the Service to consolidate management authority over the remainder of the refuge, which is owned by the State of Arizona (90,191 acres), the U.S. Forest Service (6,662 acres), and the Bureau of Land Management (583 acres). The Service proposes to open the refuge to migratory bird, upland game,

and big game hunting. Hunting has traditionally occurred on portions of the Buenos Aires Ranch by permission of the landowner on private lands and by open hunting on State and Federal lands within the Ranch boundaries. Bottomland grassland habitats preferred to masked bobwhite quail, which comprise about 50,000 acres of the refuge, have been closed to all quail hunting by the State of Arizona for several years. (Gambel's Montezuma, and scaled quail also occur on the refuge.) The Service proposes to continue traditional hunting uses on an interim basis until a master plan is completed for the refuge. All quail hunting would continue to be prohibited on the 50,000 acres of bottomland masked bobwhite quail habitats closed in the past by the State. Opening limited areas of the refuge to hunting would result in only minor and temporary disturbances to refuge habitat. In the experience of the Service, such minor disturbances would have no measurable adverse effects on wildlife populations. In addition, hunting on the bottomlands could aid in reestablishing masked bobwhite quail populations by reducing predation. A Section 7 consultation determined that the continued existence of the endangered masked bobwhite quail would not be jeopardized by the proposed hunting program. The possibility of accidental taking of masked bobwhites would be minimized through hunter education, posting of the closed quail hunting area, law enforcement, and population monitoring. Also, the preferrred habitat of the masked bobwhite, and potential release sites for reintroduced birds, are located within the area closed to all quail hunting. For these reasons, the opening of Buenos Aires NWR to migratory bird, upland game, and big game hunting would not interfere with the purposes for which the refuge was established and would be in compliance with the Refuge Recreation Act. The estimated annual cost to administer the hunting program would be approximately $8,820. Within the projected annual refuge budget of $300,000, the necessary funds would be available for the administration of the proposed hunting program. Therefore, the opening of Buenos Aires NWR to migratory bird, upland game, and big game hunting would be in compliance with the Refuge Recreation Act.

Buffalo Lake NWR was established in 1985 by Executive Order 10787 for the conservation of migratory birds. The Service proposes to open the refuge to upland game hunting. Refuge hunting would be regulated to allow only the taking of pheasants, and a refuge permit would be required to limit the number of hunters on the refuge. The area proposed for hunting is dry lake bed and grassland habitat, which is primarily used by resident wildlife species. During periods of increased runoff, when the lake bed holds standing water, upland game habitat is inundated and upland game populations disperse. Under such conditions, the hunting program would be modified or suspended. Because only a nonmigratory species would be hunted, and only on a portion of the refuge used primarily by resident wildlife species, migratory birds would not be adversely affected by the proposed hunting activity. Therefore, the opening of Buffalo Lake NWR to upland game hunting would be in compliance with the Refuge Administration Act. The estimated annual cost to administer the hunting program would be approximately $5,600. Within the annual refuge budget of approximately $99,000, the necessary funds would be available for the administration of the proposed hunting program. Therefore, the opening of Buffalo Lake NWR to upland game hunting would be in compliance with the Refuge Recreation Act.

Cedar Keys NWR was established in 1929 by Executive Order 5158 as "a refuge and breeding ground for birds." The Service proposes to open the refuge to sport fishing. Sport fishing has traditionally occurred in the State-controlled waters surrounding the refuge, with no adverse impacts. The proposed fishing program would only permit fishing from refuge beaches into the surrounding waters, and only during daylight hours. Most fishing would occur in conjunction with other refuge activities such as picnicking and beach-combing. Refuge fishing would be in accordance with State regulations which ensure the conservation of the fishery resource. In the experience of the Service, the proposed activity would not adversely affect bird populations or habitats. Therefore, the opening of Cedar Keys NWR to sport fishing would be in compliance with the Refuge Administration Act. The estimated annual cost to administer the fishing program would be approximately $100. Within the annual refuge budget of approximately $5,000, the necessary funds would be available for the administration of the proposed fishing program. Therefore, the opening of Cedar Keys NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Columbian White-tailed Deer NWR was established in 1972 under authority of the Endangered Species Act, as amended, to preserve and manage critical habitat for the endangered Columbian white-tailed deer. It is currently administered as part of the Lower Columbia River Refuge Complex. The Service proposes to open the refuge to big game hunting. In 1983, the Columbian White-tailed Deer Recovery Team determined that the presence of large numbers of Roosevelt elk on the refuge is jeopardizing the continued survival of the deer. Hunting would help to maintain the elk population at a level that would minimize adverse impacts on the Columbian white-tailed deer. The elk control program would be intended to reduce competition between elk and the endangered deer for the available habitat. The hunt would be implemented only when other methods of population reduction, such as trapping and transplanting, fencing, and off-refuge hunting, fail to achieve the desired elk herd size. Elk hunting would be regulated to ensure that it would not jeopardize the endangered deer, adversely modify its habitat, or interfere with or distract from the conservation of fish and other wildlife and their habitats. Since reduction of the refuge elk herd would contribute materially to the accomplishment of the refuge purpose of conserving Columbian white-tailed deer habitat, the opening of Columbian White-tailed Deer NWR to big game hunting would be in compliance with the Refuge Administration Act. The estimated annual cost to administer the hunting program would be approximately $14,000. Within the annual Lower Columbia River Refuge Complex budget of approximately $800,000, the necessary funds would be available for the administration of the proposed hunting program. Therefore, the opening of Columbian White-tailed Deer NWR to big game hunting would be in compliance with the Refuge Recreation Act.

The Service also proposes to open Columbian White-tailed Deer NWR to sport fishing. The proposed fishing activity would permit continuation of recreational uses which have occurred, with no adverse impacts, since long before the refuge was established. Refuge fishing would be in accordance with State regulations which ensure the conservation of the fishery resource. The activity would involve fishing from a refuge dike to take fish from non-refuge waters and fishing in a refuge pond. The locations where fishing would occur are such that they would not jeopardize the endangered deer or adversely modify its habitat. Therefore, the opening of Columbian White-tailed

Deer NWR to sport fishing would be in compliance with the Refuge Administration Act. The estimated annual cost of the fishing program would be less than $100 since no special services or facilities would be required to administer it and public access would be via a county road open to all refuge visitors. Within the annual Lower Columbia River Refuge Complex budget of approximately $800,000, the necessary funds would be available for the administration of the fishing program. Therefore, the opening of Columbian White-tailed Deer NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Egmont Key NWR was established in 1974 by Pub. L. 93–341 to preserve habitat for shore and colonial birds. The Service proposes to open the refuge to sport fishing. Sport fishing has traditionally occurred in the State-controlled waters surrounding the refuge, with no adverse impacts. The proposed fishing program would only permit fishing from refuge beaches into the surrounding waters, and only during daylight hours. Refuge fishing would be in accordance with State regulations which ensure the conservation of the fishery resource. No bird nesting occurs on the island. In the experience of the Service, the proposed activity would not adversely affect birth habitat. Therefore, the opening of Egmont Key NWR to sport fishing would be in compliance with the Refuge Administration Act. The estimated annual cost of the fishing program would be less than $100 since no special services or facilities would be required to administer it. Within the annual refuge budget of approximately $8,000, the necessary funds would be available for the administration of the proposed fishing program. Therefore, the opening of Egmont Key NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Harbor Island NWR was established in 1984 under authority of the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742), to preserve and enhance the island's unique ecosystem. It is currently administered by Seney NWR. The Service proposes to open the refuge to migratory bird, upland game, and big game hunting. Hunting occurred regularly on the island prior to its purchase from The Nature Conservancy, with no adverse impacts. Access to Harbor Island is by boat only, which would limit hunter use of the refuge and result in only minor and temporary disturbances to refuge wildlife and habitat. Hunting would help to preserve the island's habitat by maintaining wildlife populations at acceptable levels. Therefore, the opening of Harbor Island NWR to migratory bird, upland game, and big game hunting would be in compliance with the Refuge Administration Act. The estimated annual cost to administer the hunting program would be approximately $1,000. Within the annual Seney NWR budget of approximately $275,000, the necessary funds would be available for the administration of the proposed hunting program. Therefore, the opening of Harbor Island NWR to migratory bird, upland game, and big game hunting would be in compliance with the Refuge Recreation Act.

Harris Neck NWR was established in 1962, under authority of Pub. L. 80–537 to provide winter feeding and resting habitat for migratory birds. It is currently administered as part of the Savannah Coastal Refuge Complex. The Service proposes to open the refuge to sport fishing. Sport fishing has traditionally occurred in the State-controlled waters near the refuge, with no adverse impacts. The proposed fishing program would only permit bank fishing from refuge lands into the surrounding waters, and only during daylight hours. Fishing would not be permitted during the refuge hunting season. Refuge fishing would be in accordance with State regulations which ensure the conservation of the fishery resource. In the experience of the Service, the proposed activity would not adversely affect migratory bird habitat. Therefore, the opening of Harris Neck NWR to sport fishing would be in compliance with the Refuge Administration Act. The estimated annual cost of the fishing program would be less than $100 since no special services or facilities would be required to administer it. Within the annual Savannah Coastal Refuge Complex budget of approximately $590,000, the necessary funds would be available for the administration of the proposed fishing program. Therefore, the opening of Harris Neck NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Hobe Sound NWR was established in 1968 under authority of the Fish and Wildlife Act of 1956 to provide nesting habitat for threatened and endangered marine turtles. The Service proposes to open the refuge to sport fishing. Sport fishing has traditionally occurred in the State-controlled waters near the refuge, with no adverse impacts. Refuge fishing would be in accordance with State regulations which ensure the conservation of the fishery resource. The proposed fishing program would permit a limited number of individuals to fish from designated beach areas on the refuge. A Section 7 evaluation indicated that because fishing would only be permitted during daylight hours, it would not interfere with turtle nesting, which occurs at night. Therefore, the opening of Hobe Sound NWR to sport fishing would be in compliance with the Refuge Administration Act. The estimated annual cost to administer the fishing program would be approximately $750. Within the annual refuge budget of approximately $60,000, the necessary funds would be available for the administration of the proposed fishing program. Therefore, the opening of Hobe Sound NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Lower Suwannee NWR was established in 1979 under authority of the Fish and Wildlife Act of 1956 to protect and manage a unique ecosystem used by wintering waterfowl and threatened and endangered species, and to provide essential feeding habitat for the West Indian Manatee. The Service proposes to open the refuge to sport fishing. Sport fishing has traditionally occurred in the State-controlled waters near the refuge, with no adverse impacts. The proposed fishing program would only permit bank fishing into interior refuge waters. Fishing would not be permitted during the refuge hunting season. Refuge fishing would be in accordance with State regulations which ensure the conservation of the fishery resource. In the experience of the Service, the proposed activity would not adversely affect waterfowl or Manatee habitat. A Section 7 evaluation indicated that threatened and endangered wildlife species, including the Manatee, would not be adversely impacted by the proposed activity either. For these reasons, the opening of Lower Suwannee NWR to sport fishing would be in compliance with the Refuge Administration Act. The estimated annual cost to administer the fishing program would be approximately $1,000. Within the annual refuge budget of approximately $70,000, the necessary funds would be available for the administration of the proposed fishing program. Therefore, the opening of Lower Suwannee NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Pelican Island NWR was established in 1903 by an unnumbered Executive Order as "a preserve and breeding ground for native birds", and redesignated by Proclamation 2416 in 1940. The Service proposes to open the refuge to sport fishing. Sport fishing has traditionally occurred in the State-

controlled waters near the refuge, with no adverse impacts. Refuge fishing would be in accordance with State regulations which ensure the conservation of the fishery resource. The proposed fishing program would only permit fishing during daylight hours from designated areas of the refuge into the surrounding waters. The public would continue to be prohibited from using those portions of the refuge that are sanctuary for colonial nesting birds. Therefore, the opening of Pelican Island NWR to sport fishing would be in compliance with the Refuge Administration Act. The estimated annual cost of the fishing program would be less than $100 since no special services or facilities would be required to administer it. Within the annual refuge budget of approximately $12,000, the necessary funds would be available for the administration of the proposed fishing program. Therefore, the opening of Pelican Island NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Pinckney Island NWR was established in 1975 under authority of the Fish and Wildlife Act of 1956 to provide feeding and nesting habitat for migratory birds. It is currently administered as part of the Savannah Coastal Refuge Complex. The Service proposes to open the refuge to sport fishing. Sport fishing has traditionally occurred in the water near the refuge, with no adverse impacts. The proposed fishing program would only permit fishing from boats into tidal creeks. A lease with the State of South Carolina conveys jurisdiction of these waters to the Service. Refuge fishing would be in accordance with State regulations which ensure the conservation of the fishing resource. In the experience of the Service, the proposed activity would not adversely affect migratory bird habitat. Therefore, the opening of Pinckney Island NWR to sport fishing would be in compliance with the Refuge Administration Act. The estimated annual cost of the fishing program would be less than $100 since no special services or facilities would be required to administer it.

Within the annual Savannah Coastal Refuge Complex budget of approximately $590,000, the necessary funds would be available for the administration of the proposed fishing program. Therefore, the opening of Pinckney Island NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Pinellas NWR was established in 1906 by an unnumbered Executive Order as "a preserve and breeding ground for native birds." The Service proposes to open the refuge to sport fishing. Sport fishing has traditionally occurred in the waters surrounding the refuge, with no adverse impacts. Refuge fishing would be in accordance with State regulations which ensure the conservation of the fishery resource. The proposed fishing activity would only permit fishing from boats into the waters surrounding the Tarpon Key portion of the refuge. A lease with the State of Florida conveys jurisdiction of these waters to the Service. No fishing would be permitted from refuge shores to protect colonial nesting birds. Therefore, the opening of Pinellas NWR to short fishing would be in compliance with the Refuge Administration Act. The estimated annual cost of the fishing program would be less than $100 since no special services or facilities would be required to administer it. Within the annual refuge budget of approximately $2,000, the necessary funds would be available for the administration of the proposed fishing program. Therefore, the opening of Pinellas NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Tybee NWR was established in 1938 by Executive Order 7882 as "a refuge and breeding ground for migratory birds and other wildlife." It is currently administered as part of the Savannah Coastal Refuge Complex. The Service proposes to open the refuge to sport fishing. Sport fishing has traditionally occurred in the State-controlled waters near the refuge, with no adverse impacts. The proposed fishing program would only permit bank fishing from refuge lands into the surrounding waters, and only during daylight hours. Refuge fishing would be in accordance with State regulations which ensure the conservation of the fishery resource. In the experience of the Service, the proposed activity would not adversely affect wildlife populations or habitats. Therefore, the opening of Tybee NWR to sport fishing would be in compliance with the Refuge Administration Act. The estimated annual cost of the fishing program would be less than $100 since no special services or facilities would be required to administer it. Within the annual Savannah Coastal Refuge Complex budget of approximately $590,000, the necessary funds would be available for the administration of the proposed fishing program. Therefore, the opening of Tybee NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Union Slough NWR was established in 1938 by Exective Order 7976 as "a refuge and breeding ground for migratory birds and other wildlife", and redesignated by Proclamation 2416 in 1940. The Service proposes to open the refuge to migratory bird, upland game, and big game hunting. Hunting would be limited to the Buffalo Creek and Schwob Units, which will soon be transferred to the Service from the Iowa Conservation Commission. The State has permitted hunting on these areas, with no adverse impacts. The units lie adjacent to those portions of the refuge devoted to intensive management for migratory bird production and maintenance. Hunting would be regulated to assure that disturbances to refuge wildlife and habitat would be minor and temporary; it would occur at a time of year so as not to disturb nesting birds. Since national wildlife refuges are established primarily to safeguard wildlife populations and their habitats, and not intended to be "safe havens" for individual animals, the use of hunting as a management tool would be in keeping with refuge purposes to conserve wildlife populations and habitats. For these reasons, the opening of Union Slough NWR to migratory bird, upland game, and big game hunting would be an appropriate use of the discretion given in Proclamation 2416 to allow taking of game and would be in compliance with the Refuge Administration Act. The estimated annual cost to administer the hunting program would be approximately $2,500. Within the annual refuge budget of approximately $130,000, the necessary funds would be available for the administration of the proposed hunting program. Therefore, the opening of Union Slough NWR to migratory bird, upland game, and big game hunting would be in compliance with the Refuge Recreation Act.

Wassaw NWR was established in 1969 under authority of the Fish and Wildlife Act of 1956 to protect wintering habitat for migratory birds. It is currently administered as part of the Savannah Coastal Refuge Complex. The Service proposes to open the refuge to sport fishing. Sport fishing has traditionally occurred in the State-controlled waters near the refuge, with no adverse impacts. The proposed fishing program would only permit bank fishing from refuge lands into the surrounding waters, and only during daylight hours. Fishing would not be permitted during the refuge hunting season. Refuge fishing would be in accordance with State regulations which ensure the conservation of the fishery resource. In the experience of the Service, the proposed activity would not adversely affect migratory bird habitat. Therefore, the opening of Wassaw NWR

to sport fishing would be in compliance with the Refuge Administration Act. The annual cost of the fishing program would be less than $100 since no special services or facilites would be required to adminster it. Within the annual Savannah Coastal Refuge Complex budget of approximately $590,000, the necessary funds would be available for the administration of the proposed fishing program. Therefore, the opening of Wassaw NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Wheeler NWR was established in 1938 by Executive Order 7926 as "a refuge and breeding ground for migratory birds and other wild life." The Service proposes to open the refuge to sport fishing. The proposed fishing activity would permit continuation of recreational uses which have occurred, with no adverse impacts, since before the refuge was established. Refuge fishing would be in accordance with State regulations which ensure the conservation of the fishery resource. The primary use of the refuge by migratory birds is during the fall and winter, whereas the peak periods of fishing activity would be during spring and summer. In the experience of the Service, the proposed activity would not adversely affect wildlife populations or habitats. For these reasons, the opening of Wheeler NWR to sport fishing would not interfere with the purposes for which the refuge was established and would be in compliance with the Refuge Administration Act. The estimated annual cost of the fishing program would be less than $100 since no special services or facilities would be required to administer it. Within the annual refuge budget of approximately $420,000, the necessary funds would be available for the administration of the proposed fishing program. Therefore, the opening of Wheeler NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Wolf Island NWR was established in 1930 by Executive Order 5316 as "a refuge and breeding ground for wild animals and birds", and redesignated by Proclamation 2416 in 1940. It is currently administered as part of the Savannah Coastal Refuge Complex. The Service proposes to open the refuge to sport fishing. Sport fishing has traditionally occurred in the State-controlled waters near the refuge, with no adverse impacts. The proposed fishing program would permit bank fishing from refuge lands into the surrounding waters, and fishing from boats into the rufuge-controlled waters of two creeks. Refuge fishing would be in accordance with State regulations which ensure the conservation of the fishery resource. In the experience of the Service, the proposed activity would not adversely affect wildlife populations or habitats. Therefore, the opening of Wolf Island NWR to sport fishing would be appropriate under proclamation 2416 and would be in compliance with the Refuge Administration Act. The estimated annual cost of the fishing program would be less than $100 since no special services or facilities would be required to administer it. Within the annual Savannah Coastal Refuge Complex budget of approximately $590,000, the necessary funds would be available for the administration of the proposed fishing program. Therefore, the opening of Wolf Island NWR to sport fishing would be in compliance with the Refuge Recreation Act.

In summary, the Service believes that these hunting and fishing programs would be appropriate incidental or secondary uses of these refuges; would be compatible with, would not interfere with, and in some cases would enhance, the primary purposes for which these refuges were established; would be biologically sound and compatible with the principles of sound wildlife management; and would not be inconsistent with any other previously authorized Federal programs or with the primary objectives of these refuges. The Service further believes that funds would be available for administration of these programs, and that these programs would otherwise be in the public interest in that they would provide needed recreational opportunities without impairment of the resource.

Hunting and fishing plans are developed for each hunting and fishing program on a refuge prior to the opening of the refuge to hunting and/or fishing. In some cases, refuge-specific hunting and/or fishing regulations are included as a part of the hunting or fishing plan to ensure the compatibility of the programs with refuge purposes. For this reason, refuge-specific regulations that are necessary for the proposed hunting and fishing programs are also included in this rulemaking. Refuge-specific regulations for refuges open to migratory bird, upland game, and big game hunting are codified in 50 CFR Part 32, §§ 32.12, 32.22, and 32.32, respectively. On February 20, 1985, at 50 FR 7079, a rule was published which proposed codifying refuge-specific fishing regulations for refuges open to sport fishing in 50 CFR Part 33, §§ 33.5 through 33.54.

Economic Effect

Executive Order 12291, "Federal Regulation," of February 17, 1981, requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et. seq.*) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

It is estimated that the proposed opening of these refuges to hunting and fishing will generate approximately 130,000 annual visits. Using data from the 1980 National Survey of Hunting, Fishing, and Wildlife-Associated Recreation, total annual receipts generated from purchases of food, transportation, hunting equipment, fishing gear, fees, and licenses associated with these programs are expected to be approximately $2.6 million, or substantially less than $100 million. In addition, since these estimated receipts will be spread over 11 states, the implementation of this rule should not have a significant economic impact on the overall economy, or a particular region, industry or group of industries, or level of government.

With respect to small entities, this rule would have a positive aggregate economic effect on small businesses, organizations, and governmental jurisdictions, the proposed openings would provide recreational opportunities and generate economic benefits that would not otherwise exist, and will impose no new costs on small entities. While the number of small entities likely to be affected is not known, the number is judged to be small. Moreover, the added cost to the Federal government of law enforcement, posting, etc., needed to implement activities undr this rule would be less than the income generated from the implementation of these hunting and/or sport fishing programs. Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 and would not have a significant economic effect on a substantial number of small entities

within the meaning of the Regulatory Flexibility Act.

Paperwork Reduction Act

The Service has received approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements are presently approved by OMB as cited below:

Type of information collection	OMB approval No.
Hunter surveys	1018-0044
Special use permits	1018-0046
Hunter reservation/permit application/blind assignment	1018-0047

These regulations impose no new reporting or recordkeeping requirements that must be cleared by OMB.

Environmental Considerations

The "Final Environmental Statement for the Operation of the National Wildlife Refuge System" [FES 76–59] was filed with the Council on Environmental Quality on November 12, 1976; a notice of availability was published in the **Federal Register** on November 19, 1976 (41 FR 51131). Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), environmental assessments have been prepared for these proposed openings. Section 7 evaluations have been prepared, where appropriate, pursuant to the Endangered Species Act. These documents are available for public inspection and copying in Room 2343, Department of the Interior, 18th and C Streets, NW, Washington, D.C. 20240, or by mail, addressing the Director at the above address.

Stephen J. Lewis, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240, is the primary author of this proposed rulemaking document.

List of Subjects

50 CFR Part 32

Hunting, National Wildlife Refuge System, Wildlife, Wildlife refuges.

50 CFR Part 33

Fishing, National Wildlife Refuge System, Wildlife refuges.

Accordingly, it is proposed to amend Parts 32 and 33 of Chapter I of Title 50 of the Code of Federal Regulations as set forth below:

PART 32—[AMENDED]

1. The authority citation for Part 32 is revised to read as follows:

Authority: Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, sec. 5, 45 Stat. 449, sec. 10, 45 Stat. 1224, sec. 4, 48 Stat. 402, as amended, sec. 4, 48 Stat. 451, as amended, sec. 2, 48 Stat. 1270, sec. 4, 76 Stat. 654, as amended, sec. 4, 80 Stat. 927; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k, 668dd; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb; Proclamation 2416, 5 FR 2677, 3 CFR, 1938–1943 Comp., p. 167; E. O. 1014 (January 26, 1909), unless otherwise noted.

2. Section 32.11 would be amended by adding Buenos Aires NWR, AZ, Union Slough NWR, IA, Harbor Island NWR, MI, and Bogue Chitto NWR, MS, alphabetically by State as follows:

§ 32.11 List of open areeas; migratory game birds.

* * * * *

Arizona

* * * * *

Buenos Aires National Wildlife Refuge

* * * * *

Iowa

* * * * *

Union Slough National Wildlife Refuge

* * * * *

Michigan

* * * * *

Harbor Island National Wildlife Refuge

* * * * *

Mississippi

* * * * *

Bogue Chitto National Wildlife Refuge

* * * * *

3. Section 32.12 would be amended by redesignating paragraphs (c) through (rr) as (d) through (ss), respectively; adding a new paragraph (c); redesignating newly redesignated paragraphs (v)(1) through (v)(6) as paragraphs (v)(2) through (v)(7), respectively; and by adding a new paragraph (v)(1) as follows:

§ 32.12 Refuge-specific regulations; migratory game birds.

* * * * *

(c) *Arizona—Buenos Aires National Wildlife Refuge.* Hunting of mourning doves, white-winged doves, ducks, geese, and coots in permitted on designated areas of the refuge.

* * * * *

(v) *Mississippi*—(1) *Bogue Chitto National Wildlife Refuge.* Hunting of ducks, geese, coots, and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Duck hunting is not permitted during the special teal season.

(ii) Hunting is permitted until noon each day.

(iii) Only temporary blinds are permitted.

* * * * *

4. Section 32.21 would be amended by adding Buenos Aires NWR, AZ, Union Slough NWR, IA, Harbor Island, NWR, MI, Bogue Chitto NWR, MS, and Buffalo Lake NWR.TX alphabetically by State as follows:

§ 32.21 List of open areas; upland game.

* * * * *

Arizona

* * * * *

Buenos Aires National Wildlife Refuge

* * * * *

Iowa

* * * * *

Union Slough National Wildlife Refuge

* * * * *

Michigan

* * * * *

Harbor Island National Wildlife Refuge

* * * * *

Mississippi

* * * * *

Bogue Chitto National Wildlife Refuge

* * * * *

Texas

* * * * *

Buffalo Lake National Wildlife Refuge

* * * * *

5. Section 32.22 would be amended by redesignating paragraph (b) introductory text, and (b)(1)–(b)(3) as paragraphs (b)(2), (b)(2)(i), (b)(2)(ii) and (b)(2)(iii), respectively, and by adding new paragraph (b)(1); by redesignating paragraphs (v)(1)–(v)(6) and (v)(2)–(v)(7), respectively; by adding new paragraph (v)(1); by redesignating paragraph (kk) introductory text, and (kk)(1) and (kk)(2) as paragraphs (kk)(2), (kk)(2)(i) and (kk)(2)(ii), respectively and by adding a new paragraph (kk)(1) as follows:

§ 32.22 Refuge-specific regulations; upland game.

* * * * *

(b) *Arizona*—(1) *Buenos Aires National Wildlife Refuge.* Hunting of quail (except masked bobwhite quail), cottentail rabbit, jackrabbit, coyote, fox, and bobcat is permitted on designated areas of the refuge.

(2) Kofa National Wildlife Refuge.

* * *

* * * * *

(v) *Mississippi*—(1) *Bogue Chitto National Wildlife Refuge.* Hunting of squirrel, rabbit, and opossum is permitted on designated areas of the

refuge subject to the following conditions:

(i) Dogs are permitted for rabbit hunting following the last day of the State deer season.

(ii) Hunting of raccoon and opossum is permitted from the opening day of the State season through November 30.

* * * * *

(kk) *Texas*—(1) *Buffalo Lake National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge subject to the following condition: A refuge hunting permit is required.

(2) Hagerman National Wildlife Refuge * * *

* * * * *

6. Section 32.31 would be amended by adding Buenos Aires NWR, AZ, Union Slough NWR, IA, Harbor Island, NWR, MI, Bogue Chitto NWR, MS, Back Bay NWR, VA, and Columbian White-tailed Deer NWR, WA, alphabetically by State as follows:

§ 32.31 List of open areas; big game.

* * * * *

Arizona

* * * * *

Buenos Aires National Wildlife Refuge

* * * * *

Iowa

* * * * *

Union Slough National Wildlife Refuge

* * * * *

Michigan

* * * * *

Harbor Island National Wildlife Refuge

* * * * *

Mississippi

* * * * *

Bogue Chitto National Wildlife Refuge

* * * * *

Virginia

* * * * *

Back Bay National Wildlife Refuge

* * * * *

Washington

* * * * *

Columbian White-tailed Deer National Wildlife Refuge

* * * * *

7. Section 32.32 would be amended by redesignating paragraphs (b)(1) through (b)(3) as paragraph (b)(2) through (b)(4), respectively; adding a new paragraph (b)(4); by redesignating paragraph (p) introductory text and (p)(1)–(p)(4) as paragraph (p)(1)(i)–(p)(1)(iv), respectively, and adding a new paragraph (p)(2); by redesignating paragraphs (v)(1) and (v)(2) as paragraphs (v)(2) and (v)(3), respectively; by adding a new paragraph (v)(1); by redesignating paragraphs (x)(1) through (x)(6) a paragraphs (x)(2) through (x)(7), respectively; by adding a new paragraph (x)(1); by redesignating paragraphs (qq)(1) through (qq)(3) as paragraphs (qq)(2) through (qq)(4), respectively; and by adding a new paragraph (qq)(1) as follows:

§ 32.32 Refuge-specific regulations; big game.

* * * * *

(b) *Arizona*—*(1) Buenos Aires National Wildlife Refuge.* Hunting of mule deer, white-tailed deer, and javelina is permitted on designated areas of the refuge.

* * * * *

(p) *Iowa*—(1) *Desoto National Wildlife Refuge* * * *

(2) *Union Slough National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge.

* * * * *

(v) *Michigan*—(1) *Harbor Island National Wildlife Refuge.* Hunting of white-tailed deer and black bear is permitted on designated areas of the refuge.

* * * * *

(x) *Mississippi*—(1) *Bogue Chitto National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) Archery hunting is permitted.

(ii) A 14-day primitive weapon deer hunt is permitted beginning December 1. During this hunt, one deer of either sex may be taken.

(iii) An 8-day gun deer hunt is permitted beginning December 15. During this hunt, only male deer may be taken.

* * * * *

(qq) *Virginia*—(1) *Back Bay National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) One deer of either sex may be taken daily a maximum of two deer may be taken per season.

(iii) Only shotguns 20 gauge or larger, loaded with buckshot and/or rifled slugs, and bow and arrow, are permitted.

(iv) Dogs are not permitted.

(v) Possession of loaded firearms or nocked arrows is not permitted on refuge roads or proclamation waters.

(vi) Hunters must wear in a conspicuous manner on head, chest, and back, a minimum of 400 square inches of "hunter orange" clothing or material.

* * * * *

PART 33—[AMENDED]

8. The authority citation for Part 33 is revised to read as follows:

Authority: Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb; Proclamation 2416, 5 FR 2677, 3 CFR, 1938–1943 Comp., p. 167; E.O. 1014 (January 26, 1909), unless otherwise noted.

9. Section 33.4 would be amended by adding Bon Secour NWR, AL, Wheeler NWR, AL, Cedar Keys NWR, FL, Egmont Key NWR, FL, Hobe Sound NWR, FL, Lower Suwannee NWR, FL, Pelican Island NWR, FL, Pinellas NWR, FL, Harris Neck NWR, GA, Tybee NWR, GA, Wassaw NWR, GA, Wolf Island NWR, GA, Pinckney Island NWR, SC, and Columbian White-tailed Deer NWR, WA, alphabetically by State as follows:

§ 33.4 List of open areas; sport fishing.

* * * * *

Alabama

* * * * *

Bon Secour National Wildlife Refuge
Wheeler National Wildlife Refuge

* * * * *

Florida

* * * * *

Cedar Keys National Wildlife Refuge
Egmont Key National Wildlife Refuge
Hobe Sound National Wildlife Refuge
Lower Suwannee National Wildlife Refuge
Pelican Island National Wildlife Refuge
Pinellas National Wildlife Refuge

* * * * *

Georgia

* * * * *

Harris Neck National Wildlife Refuge
Tybee National Wildlife Refuge
Wassaw National Wildlife Refuge
Wolf Island National Wildlife Refuge

* * * * *

South Carolina

* * * * *

Pinckney Island National Wildlife Refuge

* * * * *

Washington

* * * * *

Columbian White-tailed Deer National Wildlife Refuge

* * * * *

10. Section 33.5 would be amended by redesignating paragraphs (a) and (b) as paragraphs (b) and (c), respectively; and by adding new paragraphs (a) and (d), to read as follows:

§ 33.5 Refuge-specific fishing regulations—Alabama.

(a) *Bon Secour National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during daylight hours only.

(2) Only nonmotorized boats and boats with electric motors are permitted on Gator and Little Gator Lakes.

* * * * *

(d) *Wheeler National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Bank fishing is not permitted around the shoreline of the refuge headquarters and in the display pool.

11. Section 33.13 would be amended by redesignating paragraphs (a), (b), (c), (d), and (e) as paragraphs (d), (f), (g), (j), and (k), respectively; and by adding new paragraphs (a), (b), (c), (e), (h), and (i) as follows:

§ 33.13 Refuge-specific fishing regulations—Florida.

(a) *Cedar Keys National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during daylight hours only.

(2) Fishing is permitted year-round, from refuge beaches only.

(b) *Egmont Key National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during hours only.

(2) Fishing is permitted year-round, from refuge beaches only.

(c) *Hobe Sound National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing is permitted year-round, during daylight hours only.

* * * * *

(e) *Lower Suwannee National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Bank fishing is permitted into interior refuge creeks, borrow pits, and canals from March 15 to September 30 only.

* * * * *

(h) *Pelican Island National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted year-round.

(2) Bank fishing from spoil islands is permitted, during daylight hours only.

(i) *Pinellas National Wildlife Refuge.* Fishing is permittd on designated areas of the refuge subject to the following condition: Fishing is only permitted from boats, into the waters surrounding Tarpon Key.

* * * * *

12. Section 33.14 would be amended by redesignating paragraphs (c) through (e) as paragraphs (d) through (f), respectively; and by adding new paragraphs (c), (g), and (h) as follows:

§ 33.14 Refuge-specific fishing regulations—Georgia.

* * * * *

(c) *Harris Neck National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted year-round except during refuge hunts.

(2) Bank fishing into estuarine waters is permitted, during daylight hours only.

* * * * *

(g) *Wassaw National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted year-round except during refuge hunts.

(2) Bank fishing into estuarine waters is permitted, during daylight hours only.

(h) *Wolf Island National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted year-round.

(2) Fishing from boats is only permitted on Beacon and Wolf Creeks.

(3) Bank fishing into estuarine waters is permitted, during daylight hours only.

13. Section 33.44 would be amended by redesignating paragraphs (c) and (d) as paragraphs (d) and (e), respectively; and by adding a new paragraph (c) as follows:

§ 33.44 Refuge-specific fishing regulations—South Carolina.

* * * * *

(c) *Pinckeny National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted year-round.

(2) Fishing is only permitted from boats, into the estuarine waters adjacent to the refuge.

* * * * *

Dated: April 18, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-11847 Filed 5-15-85; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of receipt of experimental fishing permit applications and request for comments.

SUMMARY: This notice acknowledges receipt of two experimental fishing permit (EFP) applications and announces a public comment period. The applicants propose to conduct experimental fisheries to harvest soupfin shark (*Galeorhinus galeus*) and other groundfish species using gillnets in the fishery conservation zone (FCZ) off the coasts of Washington, Oregon, and California. If granted, the EFPs would allow the harvest of groundfish species with fishing gear which otherwise would be prohibited by Federal regulations.

DATE: Comments on these EFP applications must be received by July 5, 1985.

ADDRESS: Send comments to Rolland A. Schmitten, Director, Northwest Region, NMFS, 7600 Sand Point Way, NE., Bin C15700, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206-526-6150.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) and implementing regulations at 50 CFR Part 663 specify that an EFP may be issued to authorize fishing that would otherwise be prohibited by the FMP and regulations. The procedures for issuing EFPs are contained in the regulations at § 663.10.

Two EFP applications to harvest groundfish species using gillnets in the FCZ off the coasts of Washington, Oregon, and California were received by the NMFS Northwest Regional Office on April 5, 1985. Current groundfish regulations at § 663.26 do not authorize the use of drift gillnets nor set nets (anchored gillnets) north of 38°00' N. latitude in the FCZ to harvest groundfish. If granted, the EFPs would allow the use of this fishing gear.

One application proposes to retain and market soupfin, leopard, and spiny dogfish sharks taken incidentally in drift gillnets in a fishery that targets on thresher shark, a species that is not managed under the FMP. The purpose of the experimental fishery is to obtain information on the harvest and potential

utilization of shark species taken incidentally to the thresher shark gillnet fishery in the FCZ. Such information will be used to evaluate the regulations which have the effect of prohibiting the retention of soupfin, leopard, and spiny dogfish sharks taken in drift gillnets. Three individuals are signatory to this application and all three will be involved in the experimental fishery, each using up to 2,000 fathoms of drift gillnets with sixteen- to twenty-inch mesh webbing. The applicants and their vessels are based in Washington and Oregon. The applicants have requested that the EFP be issued for June to December 1985 in the FCZ off Washington, Oregon, and California.

The other application proposes to target on soupfin sharks using a set net. The purpose of this experimental fishery is to obtain information on reestablishment of a viable soupfin shark fishery utilizing set nets that have been modified to reduce or eliminate the incidental take of other groundfish species. Six individuals are signatory to this application and all six and their individual vessels would be involved in the experimental fishery, each using one to four 800-meter set nets with nine- to sixteen-inch mesh webbing. The applicants and their vessels are based in Oregon. The applicants have requested that the EFP be issued for one year in the Columbia and Vancouver management subareas in the FCZ off Washington, Oregon, and northern California.

Both applications will be discussed at the next public meeting of the Pacific Fishery Management Council in Portland. The decision to approve or deny these EFP applications will be based on a number of considerations including recommendations made by the Council at their July 10–11, 1985, meeting and comments received from the public.

(16 U.S.C. 1801 *et seq.*)

Dated: May 13, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85–11857 Filed 5–15–85; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 50, No. 95
Thursday, May 16, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Finding of No Significant Impact; Pike County Roadside Critical Area Treatment RC&D Measure, Indiana

AGENCY: Soil Conservation Service, Department of Agriculture.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, State Conservationist, Indianapolis, Indiana, 46224, telephone 317–248–4350.

Notice

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Pike County Roadside Critical Area Treatment #317 RC&D Measure, Pike County, Indiana.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Robert L. Eddleman, State Conservationist, has determined that the preparation of and review of an environmental impact statement are not needed for this project.

The measure involves a plan for Critical Area Treatment. The planned works of improvement include grading and shaping of roadside ditches; installing earthen fill; installing rock rip rap; installing excelsior blanket; and applying seed, fertilizer, and mulch to establish vegetation.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental evaluation is on file and may be reviewed by contacting Robert L. Eddleman, State Conservationist. The FNSI has been sent to various Federal, State and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Food Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 6, 1985.

Robert L. Eddleman,

State Conservationist.

[FR Doc. 85–11819 Filed 5–15–85; 8:45 am]

BILLING CODE 3410–16–M

Finding of No Significant Impact; Shelbyville High School Critical Area Treatment RC&D Measure, Indiana

AGENCY: Soil Conservation Service, Department of Agriculture.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, State Conservationist, Indianapolis, Indiana, 46224, telephone 317–248–4350.

Notice

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Shelbyville High School Critical Area Treatment RC&D Measure, Shelby, Indiana.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Robert L. Eddleman, State Conservationist, has determined that the preparation of and review of an environmental impact statement are not needed for this project.

The project concerns a plan for Critical Area Treatment. The planned works of improvement include the installation of a grade stabilization structure, grass waterway regarding, subsurface drainage, and critical area planting. Approximately one acre will be seed.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental evaluation is on file and may be reviewed by contacting Robert L. Eddleman, State Conservationist. The FNSI has been sent to various Federal, State and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Food Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 6, 1985.

Robert L. Eddleman,

State Conservationist.

[FR Doc. 85–11818 Filed 5–15–85; 8:45 am]

BILLING CODE 3410–16–M

Environmental Impact; Montgomery County Area Treatment RC&D Measure, Virginia

AGENCY: Soil Conservation Service USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environment Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Montgomery County Park Critical Area Treatment RC&D Measure, Montgomery County, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Manly S. Wilder, State Conservationist, Soil Conservation Service, 400 North Eighth Street,

Richmond, Virginia 23240, telephone 804–771–2455.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Manly S. Wilder, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for seeding eroding areas on the Montgomery County Park property in Montgomery County, Virginia. The planned work will include the establishment of 1.5 acres of permanent vegetative cover, installation of diversions and grassed waterways and grading and shaping eroding areas.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copies request at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Manly S. Wilder.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

Dated: May 8, 1985.

Manly S. Wilder,

State Conservationist.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects in applicable)

[FR Doc. 85–11876 Filed 5–15–85; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held June 11, 1985, 9:30 a.m., J. Robert Oppenheimer Study Center, Los Alamos National Laboratory, Los Alamos, NM. The meeting will continue to its conclusion on June 12, 1985, in the J. Robert Oppenheimer Study Center. The Hardware Subcommittee was formed to focus on manufacturing and performance charactertiscs of main frames and other computer hardware.

General Session:

1. Opening remarks by the Subcommittee Chairman.

2. Presentation of papers or comments by the public.

3. Comments and recommendations on changes to the data processing rate.

4. Proposed break-up of CCL 1565.

5. Action items underway.

6. Action items due at next meeting.

Executive Session:

7. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meeting and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202–377–4217. For further information or copies of the minutes contact Margaret A. Cornejo 202–377–2583.

Dated: May 13, 1985.

Milton M. Baltas,

Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 85–11803 Filed 5–15–85; 8:45 am]

BILLING CODE 3510–DT–M

The Pennsylvania State University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 85–053. Applicant: The Pennsylvania State University, University Park, PA 16802. Instrument: Ion Microanalyzer, Model IMS 3F with Accessories. Manufacturer: CAMECA Instruments, Inc., France. Intended Use: See notice at 50 FR 987.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides (1) ion microscope capabilities, and (2) trace element analysis with high mass resolution (10 000) and high spatial resolution (<0.5 micrometers). The National Bureau of Standards advises in its memorandum dated March 21, 1985 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 85–11868 Filed 5–15–85; 8:45 am]

BILLING CODE 3510–DS–M

The Research Foundation of State University of New York; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and

Constitution Avenue NW., Washington, D.C.

Docket No.: 84–304. Applicant: The Research Foundation of State University of New York, Albany, NY 12201. Instrument: Plasma Spray Equipment System. Manufacturer: Plasma Technik AG, Switzerland. Intended use: See notice at 49 FR 40069.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides precise, reproducible control of vacuum plasma spraying of coatings for materials research. The National Bureau of Standards advises in its memorandum dated March 7, 1985 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 85–11867 Filed 5–15–85; 8:45 am]

BILLING CODE 3510-DS-M

University of Florida; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No. 84–218. Applicant: University of Florida, Gainesville, FL 32611. Instrument: Electromagnetic Survey Conductor, Model EM–31 with Analog Recorder. Manufacturer: Geonics, Canada. Intended use: See notice at 49 FR 28288.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides in situ non contact conductivity measurement for selective topographic mapping of archeological settings. The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and we know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 85–11866 Filed 5–15–85; 8:45 am]

BILLING CODE 3510-DS-M

University of Southern California; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 84–149. Applicant: University of Southern California, Los Angeles, CA 90033. Instrument: 137 Caesium Irradiator System, Model Gamma Cell 40. Manufacturer: Atomic Energy of Canada, Ltd., Canada. Intended use: See notice at 50 FR 7363.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides (1) a large, uniform field of radiation with high calibration stability, and (2) a specimen chamber large enough to accommodate an adequate sample (30 rats). The National Institutes of Health advises in its memorandum dated June 20, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 85–11865 Filed 5–15–85; 8:45 am]

BILLING CODE 3510-DS-M

Short Supply Determinations on Steel Pipe and Tube: Request for Comments

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces review of a request for a short supply determination under Article 8 of the US–EEC Pipe and Tube Arrangement with respect to seamless hot finished alloy steel mechanical tubing which is used in the production of reinforcements for the interiors of vehicle doors.

EFFECTIVE DATE: Comments must be submitted on or before May 28, 1985.

ADDRESS: Send all comments to Joseph A. Spetrini, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20330, Room 3099.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Tolerico, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230, Room 3087B, (202) 377–4036.

SUPPLEMENTARY INFORMATION: On January 10, 1985 the United States (U.S.) and the European Economic Community (EEC) concluded a clarification of the Pipe and Tube Arrangement agreed to on October 21, 1982. The January 10 clarification provides in Article 8 that "* * * the U.S. shall accept exports of pipes and tubes in addition to those permitted under sections 1 and 2 where a shortage of supply is identified, i.e., where the U.S. industry is unable to meet demand in the United States for a particular product." Under the terms of Article 8 the Department "* * * shall make a decision under this section on the basis of objective evidence from all relevant sources."

We have received a request for short supply for the following two sizes of seamless, hot finished alloy steel

mechanical tubing used in the production of reinforcements for the interiors of vehicle doors:

A. Tubing with a diameter of 25.0 to 34.4 mm and a wall thickness of 2.4 to 4.0 mm, conforming to ASTM specifications A–519, A–370, and E–18; and,

B. Tubing with a diameter of 31.8 mm and a wall thickness of 2.3 and 3.2 mm conforming to ASTM specifications A–519, A–310, and E–18.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than ten days after the publication of this notice. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of their submission and also submit with it a submission without proprietary information, which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B–099 at the above address.

May 12, 1985.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 85–11864 Filed 5–15–85; 8:45 am]

BILLING CODE 3510–DS–M

Minority Business Development Agency

[Transmittal No. 85–85029; Project I.D. Number: 06–10–85029–01]

Lubbock Minority Business Development Center (MBDC)

May 10, 1985.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a *Three (3) year period*, subject to available funds. The cost of performance for the first *thirteen (13) months* is estimated at *$201,965* for the project's performance of *09/01/85 to 09/30/86*. The MBDC will operate in the *Lubbock Metropolitan Statistical Area (MSA)*.

The first year cost for the MBDC will consist of *$171,666* Federal funds and a minimum of *$30,299* in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian Tribes and educational institutions.

The MBDC will provide management and technical assistance (M&TA) to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer tham a full range of management and technical assistance (F&TA); and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance (M&TA); the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance (M&TA); the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA, based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

DATES: *Closing Date:* The closing date for applications is June 17, 1985. Applications must be postmarked ON or BEFORE June 17, 1985.

ADDRESS: MBDA—Dallas Regional Office, 1100 Commerce Street, Suite 7B23, Dallas, Texas 75242–0790.

FOR FURTHER INFORMATION CONTACT: Bill Medina, Business Development Specialist, Dallas Regional Office, 214/767–8001.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of the application kits and applicable regulations can be obtained at the above address.

Melda Cabrera,

Acting Regional Director, Minority Business Development Agency, Dallas Regional Office.

[FR Doc. 85–11798 Filed 5–15–85; 8:45 am]

BILLING CODE 3510–21–M

[Transmittal No. 85–6000–03; Project I.D. Number: 06–10–85010–01]

Corpus Christi Minority Business Development Center (MBDC)

May 10, 1985.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a *three (3) year period*, subject to available funds. The cost of performance for the first *thirteen (13) months* is estimated at *$356,291* for the project's performance of *09/01/85 to 09/30/86*. The MBDC will operate in the *Corpus Christi Metropolitan Statistical Area (MSA)* and counties of Nueces, Kleberg, Jim Wells, San Patricio, Bee and Aransas.

The first year cost for the MBDC will consist of *$302,840* Federal funds and a minimum of *$53,451* in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian Tribes and educational institutions.

The MBDC will provide management and technical assisstance (M&TA) to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance (M&TA); and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance (M&TA); the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business indviduals and organizations; the resources available to the firm in providing management and technical assistance (M&TA); the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA, based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

DATES: *Closing date:* The closing date for applications is June 17, 1985. Applications must be postimarked ON or BEFORE *June 17, 1985Q02*

ADDRESS: MBDA—Dallas Regional Office, 1100 Commerce Street, Suite 7B23, Dallas, Texas 75242–0790.

FOR FURTHER INFORMATION CONTACT: Bill Medina, Business Development Specialist, Dallas Regional Office, 214/767–8001.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of the application kits and applicable regulation can be obtained at the above address.

Medla Cabrera,

Acting Regional Director, Minority Business Development Agency, Dallas Regional Office.

[FR Doc. 85–11786 Filed 5–15–85; 8:45 am]

BILLING CODE 3510-21-M

[Transmittal No. 85–6000–13; Project I.D. Number: 06–10–85023–01]

New Orleans Minority Business Development Center (MBDC)

May 10, 1985.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a *three (3) year period,* subject to available funds. The cost of performance for the first *thirteen (13) months* is estimated at *$489,335* for the project's performance of *09/01/85 to 09/30/86.* The MBDC will operate in the *New Orleans Metropolitan Statistical Area (MSA).*

The first year cost for the MBDC will consist of *$415,935* Federal funds and a minimum of *$73,400* in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian Tribes and educational institutions.

The MBDC will provide management and technical assistance (M&TA) to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms: offer them a full range of management and technical assistance (M&TA); and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing managment and technical assistance (M&TA); the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing managment and technical assistance (M&TA); the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA, based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

DATES: *Closing date:* The closing date for applications is June 17, 1985. Applications must be postmarked ON or BEFORE June 17, 1985.

ADDRESS: MBDA—Dallas Regional Office, 1100 Commerce Street, Suite 7B23, Dallas, Texas 75242–0790.

FOR FURTHER INFORMATION CONTACT: Bill Medina, Business Development Specialist, Dallas Regional Office, 214/767–8001.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of the application kits and applicable regulation can be obtained at the above address.

Melda Cabrera,

Acting Regional Director, Minority Business Development Agency, Dallas Regional Office.

[FR Doc. 85–11797 Filed 5–15–85; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council; Public Meeting

The South Atlantic Fishery Management Council will convene a public meeting, May 20–23, 1985, in Brunswick, GA, to discuss billfish, mackerel, snapper-grouper, shrimp, swordfish, and other fishery management business. A detailed agenda will be available to the public around May 10. For further information contact David H.G. Gould, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: (803) 571–4366.

Dated: May 13, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85–11905 Filed 5–15–85; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Scientific Advisory Committee; Meeting

AGENCY: Defense Intelligence Agency Scientific Advisory Committee, DoD.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of Subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a panel of the DIA Scientific Advisory Committee has been scheduled as follows:

DATE: July 18, 1985, 9:00 a.m. to 5:00 p.m.

ADDRESS: The DIAC, Bolling AFB, D.C.

FOR FURTHER INFORMATION CONTACT: Lt Col Harold E. Linton, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, D.C. 20301 (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meetings are devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Advanced Air Defense.

Dated: May 10, 1985.

Thomas J. Condon,

Acting OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 85–11824 Filed 5–15–85; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligence Agency Scientific Advisory Committee; Meeting

AGENCY: Defense Intelligence Agency Scientific Advisory Committee, DOD.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of Subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a panel of the DIA Scientific Advisory Committee has been scheduled as follows:

DATE: July 16, 1985, 9:00 a.m. to 5:00 p.m.

ADDRESS: The DIAC, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Lt. Col. Harold E. Linton, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, D.C. 20301 (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Microelectronics and Computers.

Thomas J. Condon,

Acting OSD Federal Register Liaison Officer, Department of Defense.

May 10, 1985.

[FR Doc. 85–11825 Filed 5–15–85; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Strengthening Program, Special Needs Program, Endowment Grant Program; Closing Date for Transmittal of Requests for Designation as an Eligible Institution for Fiscal Year 1986

Institutions of higher education that wish to apply for a grant under the Strengthening, Special Needs, or Endowment Grant Programs in Fiscal Year 1986 are invited to apply for designation as an "eligible institution" under one or more of these programs by submitting a "Request for Designation as an Eligible Institution" form (ED Form 1049–6). The Strengthening Program, Special Needs Program, and Endowment Grant Program are authorized under sections 301–347 of Title III of the Higher Education Act of 1965, as amended (HEA).

(20 U.S.C. 1051–1069c)

The above programs are designed to help eligible institutions of higher education become self-sufficient by providing Federal grant funds to improve their academic quality; strengthen their planning, management, and fiscal capabilities; and establish or expand their endowment funds.

To apply for a grant under one or more of the above programs, an institution must first be designated as an eligible institution under the applicable regulations for each program.

Closing Date for Transmittal of Requests: A "Request for Designation as an Eligible Institution" must be mailed or hand-delivered to the U.S. Department of Education by July 1, 1985.

Requests Delivered by Mail: A request sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.031H (Title III–Designation), Washington, D.C. 20202.

A request must show proof of mailing, consisting of one of the following:

1. A legibly dated U.S. Postal Service postmark;

2. A legible mail receipt with the date of mailing stamped by the U.S. Postal Service;

3. A dated shipping label, invoice, or receipt from a commercial carrier;

4. Any other proof of mailing acceptable to the U.S. Secretary of Education.

If a request is sent through the U.S. Postal Service, the Secretary does *not* accept a private metered postmark or a private mail receipt as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified by the Application Control Center that its request for designation as an eligible institution will not be considered.

After the closing date, the Secretary will not accept any new information or adjustments to the information that has been submitted on the "Request for Designation as an Eligible Institution" form.

Requests Delivered by Hand: A request that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered request between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

A request that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Request Forms: A copy of the "Request for Designation as an Eligible Institution" form (ED Form 1049–6) will be mailed to all institutions of postsecondary education on or about May 24, 1985. Copies of the request form may also be obtained by writing to the Division of Eligibility and Agency Evaluation, Attention: 84.031H (Title III Designation), Room 3522, Regional Office Building 3, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Approved by the Office of Management and Budget under Control Number 1840–0103.)

Program Information: Under the Strengthening and Special Needs Programs, the Secretary determines an institution's eligibility based, in part, upon an institution's education and general (E&G) expenditures, together with either the amount of Pell Grants (for the Strengthening Program) or the amount of Title IV, HEA, student financial assistance (for the Special Needs Program) that was awarded to students attending that institution during a particular base year (i.e., base

year 1981–1982 for this notice). In order to quality for a grant under the Endowment Grant Program, an applicant institution must qualify as an "eligible institution" using the eligibility criteria for E&G and award data of the Strengthening Program or the Special Needs Program. The specific program eligibility requirements are detailed in the "Request for Designation as an Eligible Institution" form and in the applicable regulations.

An institution that has completed a nonrenewable development grant or is currently the recipient of an ongoing non-competing continuation or planning grant under the Strengthening Program or the Special Needs Program is not precluded from receiving a grant under the Endowment Grant Program. However, such an institution must submit a Request for Designation form and be redesignated as an eligible institution under this notice to be eligible to apply for and receive an Endowment grant.

For Fiscal Year (FY) 1986 grant awards, the Secretary will use award year 1981–1982 (July 1, 1981–June 30, 1982) as the base year for calculating an institution's eligibility to apply for a grant under the Strengthening, the Special Needs, and the Endowment Grant Programs. This is the same base year that the Secretary used to establish eligibility for the FY 1984 Endowment Grant Program and for the FY 1985 Strengthening, Special Needs, and Endowment Grant Programs. Because data for the same base year of 1981–1982 are being used for FY 1986, decisions that were made regarding an institution's eligibility to apply for participation in the FY 1984 Endowment Grant Program or the FY 1985 Strengthening, Special Needs, and Endowment Grant Programs will also pertain to the FY 1986 funding competitions for these programs. While an institution that was designated "eligible" to apply for participation in the Strengthening or Special Needs Programs in FY 1985, or the Endowment Grant Program in FY 1984 or FY 1985, does not need to re-submit the "Request for Designation as an Eligible Institution" form for that particular program or programs for FY 1986, *such an institution must submit a letter indicating its intent to maintain eligibility for that program or programs in FY 1986 by the closing date of this notice.*

Any institution that was designated "eligible" to apply for the Endowment Grant Program in FY 1984 that wishes to be designated eligible under the Specials Needs Program for FY 1986 must submit its Fall 1984 full-time equivalent enrollment data in order to maintain its eligibility designation for the FY 1986 Special Needs Program. The Title III Special Needs Program legislation requires an institution to have an enrollment of at least 100 full-time equivalent students in the academic year in which it applies for designation.

If an institution was declared ineligible to participate in the FY 1984 Endowment Grant Program competition or the FY 1985 funding competitions for the Strengthening, Special Needs, or the Endowment Grant Programs, it is suggested that the institution review the 1981–1982 base-year data that it submitted on the request form (ED Form 1049–6) for that competition. If any element of its 1981–1982 award data needs to be corrected, the institution may submit corrected data and re-apply under this notice.

If an institution did not apply for designation as an "eligible institution" using its 1981–1982 award data in connection with the funding competitions for the FY 1984 Endowment Grant Program or the FY 1985 Strengthening Program, Special Needs Program, or Endowment Grant Program, it may apply for such designation under this notice.

In completing the "Request for Designation as an Eligible Institution" form (ED Form 1049–6), an institution must submit its E&G expenditure data for the same 12-month period (July 1, 1981–June 30, 1982). This information should correspond with data submitted under the "Higher Education General Information Survey (HEGIS XVI), Financial Statistics of Institutions of Higher Education for Fiscal Year Ending 1982."

The Secretary will use Pell grant award data that are currently on file in the Department for base year 1981–1982 to make determinations under the financial aid eligibility criteria, as set forth in 34 CFR 625.2 and 626.2.

Under amended section 109 of the Tribally Controlled Community College Assistance Act of 1978, an institution applying for eligibility under the Strengthening, Special Needs, and Endowment Grant Programs may include together with its Pell grant award data, (1) the number of Indian students who received student assistance grants from BIA and (2) the amount of BIA student assistance funds disbursed to students for postsecondary education.

In accordance with this section, any institution that participated in the BIA student assistance grant program (in base year 1981–1982) is requested to submit along with its "Request for Designation as an Eligible Institution" form (ED Form 1049–6) the following information:

	Award Year 1981–82
The number of BIA student assistance grant recipients who did not receive Pell grants	———
The number of students who received both BIA student assistance grants and Pell grants	———
The amount of BIA student assistance funds distributed to Indian students	$———

Please submit the information, in the format shown above, on official letterhead stationery of the institution over the signature of the President of the institution.

The conversion tables and eligibility thresholds which the Secretary will use in determining an institution's eligibility are published as an appendix to this notice. These are the same conversion tables and eligibility thresholds that were previously published in the **Federal Register** on June 20, 1984 (49 FR 120) for the FY 1984 Endowment Grant Program, and on September 28, 1984 (49 FR 190) and November 30, 1984 (49 FR 232) for the FY 1985 Strengthening, Special Needs, and Endowment Grant Programs.

Applicable Regulations: Regulations applicable to the eligibility process include the Institutional Aid Programs-General Provisions Regulations (34 CFR 624.2, 624.3 and 624.20); the Strengthening Program Regulations (34 CFR 625.2 and 625.3); the Special Needs Program Regulations (34 CFR 626.2 and 626.3); and the Endowment Grant Program Regulations (34 CFR 628.2). These regulations were published in the **Federal Register** of January 5, 1982, 47 FR 540–557, and of July 12, 1984, 49 FR 28520–28536.

Applicable Legislation: Legislation applicable to the eligibility process include Title III of the Higher Education Act of 1965, as amended; and the Tribally Controlled Community College Assistance Act of 1978, as amended by section 109 of Pub. L. 98–192.

Further Information: For further information, contact the Division of Eligibility and Agency Evaluation, Room 3030, Regional Office Building 3, Washington, D.C. 20202. Telephone (202) 245–9873.

(20 U.S.C. 1051–1069c)

(Catalog of Federal Domestic Assistance Number: 84–031H Institutional Aid Programs)

Dated: May 13, 1985.

C. Ronald Kimberling,

Acting Assistant Secretary for Postsecondary Education.

FISCAL YEAR 1986 COMPETITION.—STRENGTHENING PROGRAM; SPECIAL NEEDS PROGRAM; ENDOWMENT GRANT PROGRAM—NATIONAL STANDARDS FOR DETERMINING INSTITUTIONAL ELIGIBILITY FOR THE TITLE III INSTITUTIONAL AID PROGRAMS

[Threshold chart]

Categories of potentially eligible institutions	Minimum thresholds			
	Strengthening Program		Special Needs Program	
	Overall threshold	Waiver threshold	Overall threshold	Waiver threshold
Two-year Public Institutions	146	97	89	59
Two-year Non-profit Private Institutions	137	91	87	56
Four-year Public Institutions	185	123	109	73
Four-year Non-profit Private Institutions	196	131	125	83
Graduate Public Institutions [1]				26
Graduate Non-profit Private Institutions [1]				76

[1] Institutions that do not award bachelor's degrees but do award graduate, postgraduate, or professional degrees may request designation for the Endowment Grant Program under the eligibility criteria for the Special Needs Program.

BILLING CODE 4000-01-M

The Secretary of Education uses the following tables to determine Title III Institutional Eligibility for the Strengthening Program, Special Needs Program, and Endowment Grant Program for Fiscal Year 1986 (based on 1981-1982 data).

PAR -A : STRENGTHENING

2 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.0515	0.01 - 368.04	12826.90+
2	0.0616 - 0.0829	368.05 - 400.42	12826.89 - 9957.15
3	0.0830 - 0.0991	400.43 - 415.11	9957.14 - 8861.19
4	0.0992 - 0.1090	415.12 - 427.86	8861.18 - 7606.61
5	0.1091 - 0.1127	427.87 - 440.05	7606.60 - 7321.91
6	0.1128 - 0.1163	440.06 - 446.50	7321.89 - 7153.44
7	0.1164 - 0.1225	446.51 - 449.29	7153.43 - 6755.29
8	0.1226 - 0.1299	449.30 - 459.75	6755.28 - 6382.41
9	0.1300 - 0.1366	459.76 - 463.89	6382.39 - 6238.02
10	0.1367 - 0.1419	463.90 - 467.86	6238.01 - 6060.24
11	0.1420 - 0.1454	467.87 - 471.12	6060.23 - 5839.29
12	0.1455 - 0.1501	471.13 - 476.21	5839.28 - 5776.19
13	0.1502 - 0.1566	476.22 - 481.97	5776.18 - 5619.09
14	0.1567 - 0.1626	481.98 - 484.64	5619.08 - 5523.21
15	0.1627 - 0.1697	484.65 - 490.02	5523.20 - 5364.95
16	0.1698 - 0.1768	490.03 - 493.56	5364.94 - 5260.52
17	0.1769 - 0.1833	493.57 - 495.94	5260.51 - 5219.23
18	0.1834 - 0.1875	495.95 - 499.77	5219.21 - 5056.63
19	0.1876 - 0.1963	499.78 - 503.11	5056.62 - 4989.19
20	0.1964 - 0.1984	503.12 - 509.36	4989.18 - 4931.50
21	0.1985 - 0.2072	509.37 - 515.35	4931.49 - 4898.99
22	0.2073 - 0.2120	515.36 - 517.45	4898.98 - 4832.35
23	0.2121 - 0.2173	517.46 - 520.73	4832.34 - 4766.30
24	0.2174 - 0.2235	520.74 - 524.29	4766.29 - 4689.61
25	0.2236 - 0.2295	524.30 - 529.44	4689.60 - 4615.10
26	0.2296 - 0.2358	529.45 - 532.38	4615.09 - 4576.72
27	0.2359 - 0.2424	532.39 - 535.16	4576.71 - 4534.21
28	0.2425 - 0.2481	535.17 - 537.99	4534.20 - 4496.61
29	0.2482 - 0.2565	538.00 - 543.39	4496.60 - 4446.84
30	0.2566 - 0.2617	543.40 - 545.79	4446.83 - 4426.86
31	0.2618 - 0.2660	545.80 - 551.14	4426.85 - 4366.07
32	0.2661 - 0.2687	551.15 - 554.83	4366.05 - 4321.45
33	0.2688 - 0.2735	554.84 - 559.27	4321.44 - 4278.71
34	0.2736 - 0.2778	559.28 - 561.82	4278.70 - 4209.76
35	0.2779 - 0.2813	561.83 - 565.14	4209.75 - 4160.49
36	0.2814 - 0.2839	565.15 - 568.64	4160.48 - 4136.48
37	0.2840 - 0.2875	568.65 - 571.56	4136.46 - 4078.06
38	0.2876 - 0.2912	571.57 - 573.89	4078.05 - 4023.56
39	0.2913 - 0.2940	573.90 - 576.92	4023.55 - 3973.27
40	0.2941 - 0.2985	576.93 - 578.42	3973.26 - 3949.22
41	0.2986 - 0.3011	578.43 - 580.69	3949.21 - 3907.57
42	0.3012 - 0.3053	580.70 - 583.52	3907.56 - 3860.54
43	0.3054 - 0.3076	583.53 - 584.59	3860.53 - 3824.30
44	0.3077 - 0.3106	584.60 - 588.53	3824.29 - 3799.70
45	0.3107 - 0.3170	588.54 - 589.91	3799.69 - 3769.37
46	0.3171 - 0.3207	589.92 - 594.64	3769.36 - 3759.32
47	0.3208 - 0.3289	594.65 - 596.53	3759.31 - 3732.35
48	0.3290 - 0.3338	596.54 - 598.74	3732.34 - 3708.53
49	0.3339 - 0.3367	598.75 - 599.98	3708.52 - 3687.74
50	0.3368 - 0.3407	599.99 - 602.48	3687.73 - 3631.23

PART-A : CONTINUE

2 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.3408 - 0.3439	602.49 - 604.96	3631.22 - 3590.61
52	0.3440 - 0.3485	604.97 - 606.19	3590.60 - 3570.10
53	0.3486 - 0.3554	606.20 - 608.77	3570.09 - 3538.79
54	0.3555 - 0.3601	608.78 - 611.75	3538.78 - 3509.44
55	0.3602 - 0.3650	611.76 - 614.07	3509.43 - 3476.22
56	0.3651 - 0.3679	614.08 - 616.03	3476.21 - 3447.80
57	0.3680 - 0.3740	616.04 - 618.57	3447.79 - 3409.89
58	0.3741 - 0.3788	618.58 - 619.29	3409.88 - 3400.70
59	0.3789 - 0.3832	619.30 - 620.18	3400.69 - 3371.08
60	0.3833 - 0.3877	620.19 - 623.20	3371.07 - 3333.41
61	0.3878 - 0.3916	623.21 - 626.75	3333.40 - 3289.25
62	0.3917 - 0.3953	626.76 - 634.02	3289.24 - 3264.32
63	0.3954 - 0.3987	634.03 - 638.60	3264.31 - 3233.12
64	0.3988 - 0.4018	638.61 - 640.70	3233.11 - 3212.84
65	0.4019 - 0.4052	640.71 - 643.10	3212.83 - 3185.09
66	0.4053 - 0.4117	643.11 - 647.54	3185.08 - 3149.68
67	0.4118 - 0.4174	647.55 - 651.65	3149.67 - 3138.24
68	0.4175 - 0.4246	651.66 - 653.06	3138.23 - 3116.24
69	0.4247 - 0.4291	653.07 - 654.20	3116.23 - 3097.86
70	0.4292 - 0.4357	654.21 - 657.42	3097.85 - 3059.72
71	0.4358 - 0.4404	657.43 - 660.25	3059.71 - 3018.07
72	0.4405 - 0.4462	660.26 - 664.09	3018.06 - 3003.71
73	0.4463 - 0.4530	664.10 - 665.87	3003.70 - 2991.19
74	0.4531 - 0.4595	665.88 - 671.16	2991.18 - 2942.65
75	0.4596 - 0.4636	671.17 - 673.55	2942.64 - 2902.00
76	0.4637 - 0.4746	673.56 - 675.78	2901.99 - 2878.91
77	0.4747 - 0.4836	675.79 - 677.89	2878.90 - 2864.57
78	0.4837 - 0.4962	677.90 - 682.52	2864.56 - 2813.61
79	0.4963 - 0.5021	682.53 - 685.72	2813.60 - 2787.36
80	0.5022 - 0.5112	685.73 - 690.28	2787.35 - 2754.49
81	0.5113 - 0.5168	690.29 - 693.46	2754.48 - 2737.91
82	0.5169 - 0.5289	693.47 - 698.17	2737.90 - 2722.29
83	0.5290 - 0.5340	698.18 - 702.56	2722.28 - 2683.10
84	0.5341 - 0.5480	702.57 - 707.54	2683.09 - 2662.00
85	0.5481 - 0.5598	707.55 - 713.14	2661.99 - 2640.26
86	0.5599 - 0.5713	713.15 - 720.59	2640.25 - 2625.91
87	0.5714 - 0.5874	720.60 - 725.53	2625.90 - 2576.94
88	0.5875 - 0.6030	725.54 - 729.37	2576.93 - 2547.06
89	0.6031 - 0.6260	729.38 - 733.48	2547.05 - 2523.46
90	0.6261 - 0.6425	733.49 - 740.97	2523.45 - 2499.34
91	0.6426 - 0.6693	740.98 - 748.39	2499.33 - 2432.26
92	0.6694 - 0.6884	748.40 - 756.74	2432.25 - 2390.07
93	0.6885 - 0.7302	756.75 - 764.67	2390.06 - 2345.09
94	0.7303 - 0.7520	764.68 - 774.90	2345.08 - 2292.83
95	0.7521 - 0.8106	774.91 - 787.19	2292.82 - 2271.01
96	0.8107 - 0.8809	787.20 - 794.80	2271.00 - 2224.39
97	0.8810 - 0.9526	794.81 - 808.93	2224.38 - 2098.02
98	0.9527 - 1.0530	808.94 - 840.65	2098.01 - 2041.67
99	1.0531 - 1.4319	840.66 - 887.99	2041.66 - 1900.13
100	1.4320+	888.00+	1900.12 - 1.00

PART-B : SPECIAL NEEDS

2 YR PUBLIC

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 - 0.0576	0.01 - 418.19	9957.15+
2	0.0577 - 0.0683	418.20 - 457.27	9957.14 - 7606.61
3	0.0684 - 0.0740	457.28 - 478.80	7606.60 - 7153.44
4	0.0741 - 0.0816	478.81 - 490.90	7153.43 - 6382.41
5	0.0817 - 0.0868	490.91 - 506.58	6382.39 - 6060.24
6	0.0869 - 0.0944	506.59 - 520.84	6060.23 - 5776.19
7	0.0945 - 0.0993	520.85 - 530.67	5776.18 - 5523.21
8	0.0994 - 0.1124	530.68 - 541.02	5523.20 - 5260.52
9	0.1125 - 0.1223	541.03 - 548.25	5260.51 - 5056.63
10	0.1224 - 0.1281	548.26 - 553.12	5056.62 - 4931.50
11	0.1282 - 0.1364	553.13 - 560.21	4931.49 - 4832.35
12	0.1365 - 0.1440	560.22 - 565.83	4832.34 - 4689.61
13	0.1441 - 0.1535	565.84 - 574.49	4689.60 - 4576.72
14	0.1536 - 0.1567	574.50 - 583.94	4576.71 - 4496.61
15	0.1568 - 0.1613	583.95 - 590.08	4496.60 - 4426.86
16	0.1614 - 0.1652	590.09 - 593.26	4426.85 - 4321.45
17	0.1653 - 0.1725	593.27 - 598.99	4321.44 - 4209.76
18	0.1726 - 0.1766	599.00 - 603.83	4209.75 - 4136.48
19	0.1767 - 0.1808	603.84 - 609.98	4136.46 - 4023.56
20	0.1809 - 0.1863	609.99 - 616.83	4023.55 - 3949.22
21	0.1864 - 0.1925	616.84 - 623.02	3949.21 - 3860.54
22	0.1926 - 0.1972	623.03 - 630.45	3860.53 - 3799.70
23	0.1973 - 0.2027	630.46 - 635.29	3799.69 - 3759.32
24	0.2028 - 0.2059	635.30 - 643.16	3759.31 - 3708.53
25	0.2060 - 0.2133	643.17 - 648.40	3708.52 - 3631.23
26	0.2134 - 0.2172	648.41 - 652.36	3631.22 - 3570.10
27	0.2173 - 0.2235	652.37 - 657.14	3570.09 - 3509.44
28	0.2236 - 0.2276	657.15 - 662.09	3509.43 - 3447.80
29	0.2277 - 0.2328	662.10 - 667.62	3447.79 - 3400.70
30	0.2329 - 0.2395	667.63 - 675.70	3400.69 - 3333.41
31	0.2396 - 0.2472	675.71 - 679.36	3333.40 - 3264.32
32	0.2473 - 0.2548	679.37 - 684.97	3264.31 - 3212.84
33	0.2549 - 0.2641	684.98 - 687.63	3212.83 - 3149.68
34	0.2642 - 0.2723	687.64 - 692.47	3149.67 - 3116.24
35	0.2724 - 0.2820	692.48 - 701.34	3116.23 - 3059.72
36	0.2821 - 0.2890	701.35 - 708.64	3059.71 - 3003.71
37	0.2891 - 0.2996	708.65 - 714.00	3003.70 - 2942.65
38	0.2997 - 0.3102	714.01 - 724.49	2942.64 - 2878.91
39	0.3103 - 0.3236	724.50 - 730.73	2878.90 - 2813.61
40	0.3237 - 0.3341	730.74 - 737.97	2813.60 - 2754.49
41	0.3342 - 0.3482	737.98 - 746.75	2754.48 - 2722.29
42	0.3483 - 0.3583	746.76 - 752.19	2722.28 - 2662.00
43	0.3584 - 0.3735	752.20 - 762.81	2661.99 - 2625.91
44	0.3736 - 0.3906	762.82 - 772.20	2625.90 - 2547.06
45	0.3907 - 0.4207	772.21 - 787.30	2547.05 - 2499.34
46	0.4208 - 0.4642	787.31 - 806.21	2499.33 - 2390.07
47	0.4643 - 0.5051	806.22 - 835.07	2390.06 - 2292.83
48	0.5052 - 0.5606	835.08 - 885.98	2292.82 - 2224.39
49	0.5607 - 0.7103	885.99 - 941.43	2224.38 - 2041.67
50	0.7104+	941.44+	2041.66 - 1.00

PART-A : STRENGTHENING

2 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.1145	0.01 - 603.47	17341.83+
2	0.1146 - 0.1160	603.48 - 625.34	17341.82 -14175.57
3	0.1161 - 0.1697	625.35 - 648.14	14175.55 -11153.14
4	0.1698 - 0.1791	648.15 - 696.77	11153.13 - 9234.77
5	0.1792 - 0.1890	696.78 - 715.20	9234.76 - 8704.02
6	0.1891 - 0.2047	715.21 - 723.53	8704.01 - 8335.66
7	0.2048 - 0.2221	723.54 - 750.53	8335.64 - 8097.48
8	0.2222 - 0.2307	750.54 - 759.69	8097.46 - 7923.25
9	0.2308 - 0.2358	759.70 - 764.35	7923.24 - 7567.53
10	0.2359 - 0.2443	764.36 - 769.29	7567.52 - 7183.89
11	0.2444 - 0.2536	769.30 - 785.17	7183.88 - 6907.50
12	0.2537 - 0.2646	785.18 - 793.02	6907.49 - 6481.62
13	0.2647 - 0.2723	793.03 - 795.74	6481.61 - 6403.98
14	0.2724 - 0.2780	795.75 - 798.05	6403.96 - 6208.09
15	0.2781 - 0.2856	798.06 - 806.15	6208.08 - 5993.69
16	0.2857 - 0.2981	806.16 - 808.47	5993.68 - 5913.12
17	0.2982 - 0.3011	808.48 - 810.46	5913.11 - 5785.20
18	0.3012 - 0.3050	810.47 - 818.67	5785.19 - 5652.44
19	0.3051 - 0.3084	818.68 - 822.05	5652.43 - 5539.07
20	0.3085 - 0.3164	822.06 - 828.25	5539.05 - 5225.32
21	0.3165 - 0.3219	828.26 - 830.97	5225.30 - 5193.42
22	0.3220 - 0.3260	830.98 - 838.93	5193.41 - 5111.98
23	0.3261 - 0.3290	838.94 - 849.11	5111.96 - 5074.24
24	0.3291 - 0.3332	849.12 - 857.74	5074.23 - 5046.27
25	0.3333 - 0.3385	857.75 - 864.26	5046.26 - 4972.50
26	0.3386 - 0.3444	864.27 - 866.03	4972.49 - 4941.55
27	0.3445 - 0.3541	866.04 - 871.10	4941.54 - 4865.97
28	0.3542 - 0.3703	871.11 - 874.25	4865.96 - 4775.70
29	0.3704 - 0.3760	874.26 - 875.33	4775.69 - 4659.55
30	0.3761 - 0.3792	875.34 - 876.95	4659.54 - 4653.02
31	0.3793 - 0.3849	876.96 - 880.34	4653.01 - 4641.16
32	0.3850 - 0.3922	880.35 - 882.07	4641.14 - 4411.79
33	0.3923 - 0.3945	882.08 - 883.41	4411.78 - 4384.00
34	0.3946 - 0.4012	883.42 - 886.50	4383.99 - 4348.14
35	0.4013 - 0.4076	886.51 - 888.90	4348.13 - 4324.23
36	0.4077 - 0.4143	888.91 - 891.87	4324.21 - 4286.21
37	0.4144 - 0.4166	891.88 - 892.91	4286.20 - 4267.52
38	0.4167 - 0.4187	892.92 - 895.66	4267.51 - 4225.27
39	0.4188 - 0.4206	895.67 - 898.12	4226.26 - 4177.36
40	0.4207 - 0.4309	898.13 - 901.40	4177.35 - 4146.02
41	0.4310 - 0.4453	901.41 - 903.88	4146.01 - 4094.33
42	0.4454 - 0.4612	903.89 - 904.34	4094.32 - 4049.68
43	0.4613 - 0.4680	904.35 - 913.50	4049.67 - 3988.36
44	0.4681 - 0.4731	913.51 - 914.99	3988.35 - 3953.84
45	0.4732 - 0.4761	915.00 - 920.66	3953.83 - 3849.06
46	0.4762 - 0.4800	920.67 - 923.15	3849.55 - 3767.77
47	0.4801 - 0.4859	923.16 - 927.50	3767.76 - 3710.23
48	0.4860 - 0.4892	927.51 - 929.75	3710.22 - 3685.69
49	0.4893 - 0.4960	929.76 - 930.80	3685.68 - 3535.52
50	0.4961 - 0.5020	930.81 - 934.16	3535.51 - 3456.61

PART-A : CONTINUE

2 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.5021 - 0.5058	934.17 - 936.60	3456.80 - 3397.16
52	0.5059 - 0.5124	936.61 - 939.02	3397.15 - 3322.68
53	0.5125 - 0.5271	939.03 - 944.37	3322.67 - 3306.27
54	0.5272 - 0.5344	944.38 - 948.43	3306.26 - 3289.45
55	0.5345 - 0.5483	948.44 - 951.75	3289.44 - 3252.96
56	0.5484 - 0.5612	951.76 - 955.73	3252.95 - 3239.81
57	0.5613 - 0.5637	955.74 - 961.99	3239.80 - 3228.12
58	0.5638 - 0.5753	962.00 - 969.31	3228.11 - 3167.07
59	0.5754 - 0.5829	969.32 - 970.93	3167.06 - 3112.96
60	0.5830 - 0.5901	970.94 - 973.89	3112.95 - 3015.97
61	0.5902 - 0.5931	973.90 - 975.93	3015.96 - 3007.76
62	0.5932 - 0.5999	975.94 - 978.67	3007.75 - 2917.90
63	0.6000 - 0.6213	978.68 - 982.63	2917.89 - 2877.93
64	0.6214 - 0.6377	982.64 - 984.62	2877.92 - 2824.46
65	0.6378 - 0.6421	984.63 - 986.59	2824.45 - 2800.12
66	0.6422 - 0.6643	986.60 - 990.45	2800.11 - 2776.17
67	0.6644 - 0.6877	990.46 - 994.82	2776.16 - 2750.58
68	0.6878 - 0.6919	994.83 - 995.29	2750.57 - 2709.42
69	0.6920 - 0.6942	995.30 - 999.02	2709.41 - 2643.99
70	0.6943 - 0.7254	999.03 -1002.65	2643.98 - 2628.94
71	0.7255 - 0.7316	1002.66 -1006.10	2628.93 - 2567.53
72	0.7317 - 0.7515	1006.11 -1010.08	2567.52 - 2532.26
73	0.7516 - 0.7766	1010.09 -1011.22	2532.25 - 2459.68
74	0.7767 - 0.7934	1011.23 -1014.29	2459.67 - 2428.28
75	0.7935 - 0.8020	1014.30 -1018.73	2428.27 - 2424.44
76	0.8021 - 0.8175	1018.74 -1024.46	2424.43 - 2342.15
77	0.8176 - 0.8325	1024.47 -1025.37	2342.14 - 2320.02
78	0.8326 - 0.8489	1025.38 -1029.16	2320.01 - 2282.39
79	0.8490 - 0.8576	1029.17 -1043.82	2282.38 - 2218.12
80	0.8577 - 0.8696	1043.83 -1049.36	2218.11 - 2136.58
81	0.8697 - 0.8921	1049.37 -1054.28	2136.57 - 2105.07
82	0.8922 - 0.9108	1054.29 -1057.85	2105.06 - 2068.95
83	0.9109 - 0.9350	1057.86 -1061.48	2068.94 - 2034.49
84	0.9351 - 0.9847	1061.49 -1062.16	2034.48 - 2014.33
85	0.9848 - 1.0045	1062.17 -1064.89	2014.32 - 1987.21
86	1.0046 - 1.0507	1064.90 -1073.48	1987.20 - 1938.79
87	1.0508 - 1.0778	1073.49 -1081.49	1938.78 - 1910.38
88	1.0779 - 1.0896	1081.50 -1083.86	1910.37 - 1889.79
89	1.0897 - 1.1285	1083.87 -1093.10	1889.78 - 1791.28
90	1.1286 - 1.1621	1093.11 -1099.05	1791.27 - 1733.02
91	1.1622 - 1.2013	1099.06 -1107.98	1733.01 - 1664.15
92	1.2014 - 1.2479	1107.99 -1113.53	1664.14 - 1629.05
93	1.2480 - 1.3749	1113.54 -1125.46	1629.04 - 1505.72
94	1.3750 - 1.4670	1125.47 -1138.10	1505.71 - 1361.07
95	1.4671 - 1.5129	1138.11 -1148.27	1361.06 - 1169.11
96	1.5130 - 1.6181	1148.28 -1175.35	1169.10 - 1133.29
97	1.6182 - 1.6499	1175.36 -1212.43	1133.29 - 1046.43
98	1.6500 - 1.6500	1212.44 -1240.05	1046.42 - 940.53
99	1.6500 - 1.6500	1240.06 -1275.35	940.52 - 799.16
100	1.6501+	1275.36+	799.15 - 1.00

PART-P : SPECIAL NEEDS

2 YR PRIVATE

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 - 0.0786	0.01 - 549.93	14175.57+
2	0.0787 - 0.1245	549.94 - 622.78	14175.55 - 9234.77
3	0.1246 - 0.1414	622.79 - 660.02	9234.76 - 8335.66
4	0.1415 - 0.1629	660.03 - 692.77	8335.64 - 7923.25
5	0.1630 - 0.1738	692.78 - 707.91	7923.24 - 7183.89
6	0.1739 - 0.1871	707.92 - 715.95	7183.88 - 6481.62
7	0.1872 - 0.1971	715.96 - 723.51	6481.61 - 6208.09
8	0.1972 - 0.2053	723.52 - 738.32	6208.08 - 5913.12
9	0.2054 - 0.2142	738.33 - 749.49	5913.11 - 5652.44
10	0.2143 - 0.2275	749.50 - 758.97	5652.43 - 5225.32
11	0.2276 - 0.2380	758.98 - 773.14	5225.30 - 5111.98
12	0.2381 - 0.2456	773.15 - 785.61	5111.96 - 5046.27
13	0.2457 - 0.2486	785.62 - 789.41	5046.26 - 4941.55
14	0.2487 - 0.2529	789.42 - 798.73	4941.54 - 4775.70
15	0.2530 - 0.2741	798.74 - 806.18	4775.69 - 4653.02
16	0.2742 - 0.2800	806.19 - 815.61	4653.01 - 4411.79
17	0.2801 - 0.2875	815.62 - 825.82	4411.78 - 4348.14
18	0.2876 - 0.2943	825.83 - 840.22	4348.13 - 4286.21
19	0.2944 - 0.2987	840.23 - 846.47	4286.20 - 4226.27
20	0.2988 - 0.3121	846.48 - 850.61	4226.26 - 4146.02
21	0.3122 - 0.3188	850.62 - 860.87	4146.01 - 4049.68
22	0.3189 - 0.3282	860.88 - 866.03	4049.67 - 3953.84
23	0.3283 - 0.3405	866.04 - 880.79	3953.83 - 3767.77
24	0.3406 - 0.3499	880.80 - 888.67	3767.76 - 3685.69
25	0.3500 - 0.3570	888.68 - 891.48	3685.68 - 3456.81
26	0.3571 - 0.3787	891.49 - 901.59	3456.80 - 3322.68
27	0.3788 - 0.3837	901.60 - 906.68	3322.67 - 3289.45
28	0.3838 - 0.4020	906.69 - 914.03	3289.44 - 3239.81
29	0.4021 - 0.4081	914.04 - 918.71	3239.80 - 3167.07
30	0.4082 - 0.4281	918.72 - 925.13	3167.06 - 3015.97
31	0.4282 - 0.4354	925.14 - 930.31	3015.96 - 2917.90
32	0.4355 - 0.4524	930.32 - 937.40	2917.89 - 2824.46
33	0.4525 - 0.4684	937.41 - 942.26	2824.45 - 2776.17
34	0.4685 - 0.4841	942.27 - 945.19	2776.16 - 2709.42
35	0.4842 - 0.5096	945.20 - 961.89	2709.41 - 2628.94
36	0.5097 - 0.5358	961.90 - 976.42	2628.93 - 2532.26
37	0.5359 - 0.5545	976.43 - 994.98	2532.25 - 2428.28
38	0.5546 - 0.5935	994.99 -1005.11	2428.27 - 2342.15
39	0.5936 - 0.6072	1005.12 -1016.67	2342.14 - 2282.39
40	0.6073 - 0.6465	1016.68 -1030.45	2282.38 - 2136.58
41	0.6466 - 0.6677	1030.46 -1040.55	2136.57 - 2068.95
42	0.6678 - 0.7123	1040.56 -1060.72	2068.94 - 2014.33
43	0.7124 - 0.7474	1060.73 -1081.48	2014.32 - 1938.79
44	0.7475 - 0.8181	1081.49 -1104.23	1938.78 - 1889.79
45	0.8182 - 0.8723	1104.24 -1137.32	1889.78 - 1733.02
46	0.8724 - 0.9725	1137.33 -1164.38	1733.01 - 1629.05
47	0.9726 - 1.1174	1164.39 -1191.24	1629.04 - 1361.07
48	1.1175 - 1.3231	1191.25 -1264.32	1361.06 - 1133.29
49	1.3232 - 1.6499	1264.33 -1471.51	1133.28 - 940.53
50	1.6500+	1471.52+	940.52 - 1.00

PART-A : STRENGTHENING

4 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.0939	0.01 - 538.24	26103.34+
2	0.0940 - 0.1260	538.25 - 607.09	26103.33 -20855.06
3	0.1261 - 0.1345	607.10 - 620.21	20855.05 -17768.36
4	0.1346 - 0.1432	620.22 - 629.21	17768.35 -13151.79
5	0.1433 - 0.1528	629.22 - 646.97	13151.78 -11143.16
6	0.1529 - 0.1632	646.98 - 660.26	11143.14 -10509.04
7	0.1633 - 0.1684	660.27 - 666.76	10509.03 -10326.05
8	0.1685 - 0.1744	666.77 - 674.54	10326.04 - 8674.21
9	0.1745 - 0.1774	674.55 - 681.46	8674.20 - 8464.98
10	0.1775 - 0.1803	681.47 - 688.18	8464.96 - 8325.39
11	0.1804 - 0.1867	688.19 - 692.86	8325.38 - 8074.47
12	0.1868 - 0.1925	692.87 - 698.95	8074.46 - 7710.76
13	0.1926 - 0.1932	698.96 - 701.26	7710.75 - 7411.33
14	0.1933 - 0.1985	701.27 - 703.39	7411.32 - 7141.99
15	0.1986 - 0.2008	703.40 - 710.34	7141.98 - 7039.90
16	0.2009 - 0.2051	710.35 - 713.87	7039.89 - 6835.25
17	0.2052 - 0.2091	713.88 - 722.62	6835.24 - 6747.85
18	0.2092 - 0.2155	722.63 - 726.04	6747.84 - 6594.07
19	0.2156 - 0.2201	726.05 - 730.95	6594.05 - 6500.36
20	0.2202 - 0.2256	730.96 - 737.42	6500.35 - 6349.40
21	0.2257 - 0.2258	737.43 - 742.67	6349.39 - 6273.22
22	0.2259 - 0.2277	742.68 - 745.49	6273.21 - 6174.54
23	0.2278 - 0.2324	745.50 - 754.87	6174.53 - 6025.75
24	0.2325 - 0.2355	754.88 - 757.34	6025.74 - 5910.54
25	0.2356 - 0.2375	757.35 - 764.06	5910.53 - 5841.65
26	0.2376 - 0.2396	764.07 - 768.99	5841.64 - 5619.45
27	0.2397 - 0.2410	769.00 - 772.78	5619.44 - 5580.54
28	0.2411 - 0.2477	772.79 - 775.95	5580.53 - 5475.40
29	0.2478 - 0.2513	775.96 - 778.46	5475.39 - 5382.95
30	0.2514 - 0.2527	778.47 - 784.29	5382.94 - 5350.45
31	0.2528 - 0.2561	784.30 - 787.11	5350.44 - 5307.20
32	0.2562 - 0.2592	787.12 - 789.91	5307.19 - 5272.98
33	0.2593 - 0.2612	789.92 - 790.56	5272.96 - 5143.76
34	0.2613 - 0.2668	790.57 - 794.49	5143.75 - 5052.06
35	0.2669 - 0.2710	794.50 - 797.99	5052.05 - 4984.24
36	0.2711 - 0.2733	798.00 - 798.90	4984.23 - 4970.58
37	0.2734 - 0.2785	798.91 - 801.23	4970.57 - 4907.09
38	0.2786 - 0.2802	801.24 - 803.19	4907.08 - 4828.87
39	0.2803 - 0.2831	803.20 - 803.97	4828.86 - 4800.98
40	0.2832 - 0.2854	803.98 - 805.46	4800.96 - 4759.69
41	0.2855 - 0.2879	805.47 - 808.97	4759.68 - 4673.50
42	0.2880 - 0.2899	808.98 - 810.95	4673.49 - 4652.00
43	0.2900 - 0.2921	810.96 - 813.99	4651.99 - 4612.53
44	0.2922 - 0.2953	814.00 - 814.62	4612.52 - 4561.15
45	0.2954 - 0.2988	814.63 - 816.44	4561.14 - 4520.18
46	0.2989 - 0.3003	816.45 - 821.94	4520.17 - 4490.61
47	0.3004 - 0.3039	821.95 - 825.11	4490.60 - 4453.80
48	0.3040 - 0.3059	825.12 - 827.09	4453.79 - 4403.72
49	0.3060 - 0.3079	827.10 - 827.66	4403.71 - 4383.87
50	0.3080 - 0.3100	827.67 - 830.65	4383.86 - 4338.86

PART-A : CONTINUE

4 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.3101 - 0.3133	830.66 - 831.68	4338.85 - 4317.64
52	0.3134 - 0.3140	831.69 - 833.65	4317.63 - 4304.37
53	0.3141 - 0.3164	833.66 - 835.65	4304.36 - 4273.67
54	0.3165 - 0.3179	835.66 - 836.87	4273.66 - 4241.81
55	0.3180 - 0.3193	836.88 - 840.35	4241.80 - 4202.61
56	0.3194 - 0.3205	840.36 - 841.09	4202.60 - 4164.98
57	0.3206 - 0.3279	841.10 - 844.16	4164.96 - 4022.91
58	0.3280 - 0.3297	844.17 - 846.37	4022.90 - 3985.47
59	0.3298 - 0.3304	846.38 - 847.87	3985.46 - 3969.92
60	0.3305 - 0.3325	847.88 - 852.09	3969.91 - 3930.62
61	0.3326 - 0.3345	852.10 - 852.63	3930.61 - 3875.61
62	0.3346 - 0.3375	852.64 - 855.02	3875.60 - 3838.91
63	0.3376 - 0.3438	855.03 - 859.02	3838.90 - 3808.48
64	0.3439 - 0.3461	859.03 - 862.33	3808.47 - 3775.92
65	0.3462 - 0.3479	862.34 - 864.68	3775.91 - 3756.35
66	0.3480 - 0.3523	864.69 - 866.07	3756.34 - 3738.02
67	0.3524 - 0.3601	866.08 - 867.68	3738.01 - 3726.95
68	0.3602 - 0.3664	867.69 - 868.16	3726.94 - 3714.73
69	0.3665 - 0.3743	868.17 - 874.39	3714.72 - 3679.20
70	0.3744 - 0.3800	874.40 - 877.36	3679.19 - 3649.10
71	0.3801 - 0.3880	877.37 - 879.42	3649.09 - 3618.91
72	0.3881 - 0.3967	879.43 - 883.52	3618.90 - 3601.65
73	0.3968 - 0.4012	883.53 - 886.91	3601.64 - 3577.04
74	0.4013 - 0.4083	886.92 - 888.20	3577.03 - 3526.79
75	0.4084 - 0.4125	888.21 - 891.51	3526.78 - 3472.81
76	0.4126 - 0.4204	891.52 - 894.22	3472.80 - 3411.82
77	0.4205 - 0.4282	894.23 - 896.23	3411.81 - 3394.44
78	0.4283 - 0.4367	896.24 - 900.57	3394.43 - 3378.48
79	0.4368 - 0.4419	900.58 - 902.76	3378.47 - 3340.15
80	0.4420 - 0.4511	902.77 - 908.31	3340.14 - 3296.89
81	0.4512 - 0.4641	908.32 - 913.56	3296.88 - 3254.01
82	0.4642 - 0.4806	913.57 - 917.25	3254.00 - 3209.33
83	0.4807 - 0.4905	917.26 - 921.77	3209.32 - 3179.35
84	0.4906 - 0.4982	921.78 - 926.81	3179.34 - 3094.70
85	0.4983 - 0.5081	926.82 - 931.72	3094.69 - 3013.87
86	0.5082 - 0.5261	931.73 - 933.55	3013.86 - 2975.51
87	0.5262 - 0.5537	933.56 - 944.88	2975.50 - 2901.89
88	0.5538 - 0.5601	944.89 - 952.59	2901.88 - 2850.12
89	0.5602 - 0.5988	952.60 - 957.96	2850.11 - 2829.72
90	0.5989 - 0.6265	957.97 - 968.08	2829.71 - 2742.87
91	0.6266 - 0.6700	968.09 - 976.60	2742.86 - 2709.33
92	0.6701 - 0.6903	976.61 - 986.27	2709.32 - 2668.29
93	0.6904 - 0.7403	986.28 - 992.93	2668.28 - 2625.96
94	0.7404 - 0.7557	992.94 -1006.21	2625.95 - 2573.02
95	0.7558 - 0.7716	1006.22 -1024.05	2573.01 - 2557.19
96	0.7717 - 0.8065	1024.06 -1045.97	2557.18 - 2500.10
97	0.8066 - 0.8439	1045.98 -1062.99	2500.09 - 2444.41
98	0.8440 - 0.9079	1063.00 -1074.30	2444.40 - 2377.48
99	0.9080 - 1.0112	1074.31 -1126.64	2377.47 - 2135.41
100	1.0113+	1126.65+	2135.40 - 1.00

PART-B : SPECIAL NEEDS

4 YR PUBLIC

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 - 0.0885	0.01 - 672.41	20855.06+
2	0.0886 - 0.1106	672.42 - 697.35	20855.05 -13151.79
3	0.1107 - 0.1199	697.36 - 726.89	13151.78 -10509.04
4	0.1200 - 0.1230	726.90 - 734.53	10509.03 - 8674.21
5	0.1231 - 0.1265	734.54 - 750.26	8674.20 - 8325.39
6	0.1266 - 0.1330	750.27 - 766.84	8325.38 - 7710.76
7	0.1331 - 0.1450	766.85 - 776.04	7710.75 - 7141.99
8	0.1451 - 0.1518	776.05 - 781.96	7141.98 - 6835.25
9	0.1519 - 0.1607	781.97 - 787.35	6835.24 - 6594.07
10	0.1608 - 0.1672	787.36 - 794.40	6594.05 - 6349.40
11	0.1673 - 0.1736	794.41 - 798.13	6349.39 - 6174.54
12	0.1737 - 0.1774	798.14 - 805.95	6174.53 - 5910.54
13	0.1775 - 0.1816	805.96 - 813.62	5910.53 - 5619.45
14	0.1817 - 0.1834	813.63 - 819.71	5619.44 - 5475.40
15	0.1835 - 0.1863	819.72 - 823.31	5475.39 - 5350.45
16	0.1864 - 0.1909	823.32 - 833.17	5350.44 - 5272.98
17	0.1910 - 0.1944	833.18 - 842.22	5272.96 - 5052.06
18	0.1945 - 0.1980	842.23 - 847.87	5052.05 - 4970.58
19	0.1981 - 0.2016	847.88 - 854.33	4970.57 - 4828.87
20	0.2017 - 0.2073	854.34 - 857.99	4828.86 - 4759.69
21	0.2074 - 0.2104	858.00 - 864.74	4759.68 - 4652.00
22	0.2105 - 0.2134	864.75 - 871.44	4651.99 - 4561.15
23	0.2135 - 0.2182	871.45 - 876.94	4561.14 - 4490.61
24	0.2183 - 0.2239	876.95 - 882.44	4490.60 - 4403.72
25	0.2240 - 0.2307	882.45 - 888.24	4403.71 - 4338.86
26	0.2308 - 0.2341	888.25 - 893.05	4338.85 - 4304.37
27	0.2342 - 0.2402	893.06 - 898.87	4304.36 - 4241.81
28	0.2403 - 0.2429	898.88 - 902.98	4241.80 - 4164.98
29	0.2430 - 0.2463	902.99 - 915.95	4164.96 - 3985.47
30	0.2464 - 0.2504	915.96 - 926.10	3985.46 - 3930.62
31	0.2505 - 0.2577	926.11 - 929.93	3930.61 - 3838.91
32	0.2578 - 0.2672	929.94 - 937.10	3838.90 - 3775.92
33	0.2673 - 0.2747	937.11 - 947.77	3775.91 - 3738.02
34	0.2748 - 0.2808	947.78 - 955.95	3738.01 - 3714.73
35	0.2809 - 0.2956	955.96 - 971.61	3714.72 - 3649.10
36	0.2957 - 0.3026	971.62 - 981.36	3649.09 - 3601.65
37	0.3027 - 0.3113	981.37 - 984.46	3601.64 - 3526.79
38	0.3114 - 0.3305	984.47 - 994.26	3526.78 - 3411.82
39	0.3306 - 0.3396	994.27 -1005.43	3411.81 - 3378.48
40	0.3397 - 0.3554	1005.44 -1016.53	3378.47 - 3296.89
41	0.3555 - 0.3736	1016.54 -1034.23	3296.88 - 3209.33
42	0.3737 - 0.3969	1034.24 -1044.54	3209.32 - 3094.70
43	0.3970 - 0.4305	1044.55 -1056.84	3094.69 - 2975.51
44	0.4306 - 0.4525	1056.85 -1065.52	2975.50 - 2850.12
45	0.4526 - 0.4880	1065.53 -1075.80	2850.11 - 2742.87
46	0.4881 - 0.5544	1075.81 -1105.73	2742.86 - 2668.29
47	0.5545 - 0.6263	1105.74 -1132.80	2668.28 - 2573.02
48	0.6264 - 0.6699	1132.81 -1156.43	2573.01 - 2500.10
49	0.6700 - 0.7792	1156.44 -1229.61	2500.09 - 2377.48
50	0.7793+	1229.62+	2377.47 - 1.00

PART-A : STRENGTHENING

4 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.0569	0.01 - 698.17	21317.37+
2	0.0570 - 0.0897	698.18 - 760.33	21317.36 -15038.08
3	0.0898 - 0.1051	760.34 - 784.50	15038.07 -13594.30
4	0.1052 - 0.1250	784.51 - 810.64	13594.29 -12102.52
5	0.1251 - 0.1363	810.65 - 818.63	12102.51 -11115.52
6	0.1364 - 0.1431	818.64 - 827.63	11115.51 -10642.75
7	0.1432 - 0.1474	827.64 - 836.69	10642.74 -10276.52
8	0.1475 - 0.1526	836.10 - 841.98	10276.51 -10186.97
9	0.1527 - 0.1601	841.99 - 847.80	10186.96 - 9681.36
10	0.1602 - 0.1659	847.81 - 852.54	9681.35 - 9418.54
11	0.1660 - 0.1711	852.55 - 856.43	9418.53 - 9160.14
12	0.1712 - 0.1782	856.44 - 860.69	9160.13 - 8833.39
13	0.1783 - 0.1821	860.70 - 863.70	8833.38 - 8703.32
14	0.1822 - 0.1901	863.71 - 868.72	8703.30 - 8294.02
15	0.1902 - 0.1937	868.73 - 871.57	8294.01 - 8160.92
16	0.1938 - 0.1991	871.58 - 876.43	8160.91 - 8074.15
17	0.1992 - 0.2033	876.44 - 879.19	8074.14 - 7952.78
18	0.2034 - 0.2077	879.20 - 884.02	7952.77 - 7766.44
19	0.2078 - 0.2131	884.03 - 886.77	7766.43 - 7636.25
20	0.2132 - 0.2175	886.78 - 891.40	7636.24 - 7522.10
21	0.2176 - 0.2231	891.41 - 894.66	7522.09 - 7389.64
22	0.2232 - 0.2270	894.67 - 898.74	7389.63 - 7289.51
23	0.2271 - 0.2297	898.75 - 902.26	7289.50 - 7160.75
24	0.2298 - 0.2336	902.27 - 906.02	7160.71 - 7070.71
25	0.2337 - 0.2390	906.03 - 908.33	7070.70 - 6998.64
26	0.2391 - 0.2427	908.34 - 911.16	6998.65 - 6897.70
27	0.2428 - 0.2487	911.17 - 913.49	6897.69 - 6791.72
28	0.2488 - 0.2528	913.50 - 917.12	6791.71 - 6705.99
29	0.2529 - 0.2571	917.13 - 919.46	6705.98 - 6602.59
30	0.2572 - 0.2617	919.47 - 922.29	6602.58 - 6500.73
31	0.2618 - 0.2656	922.30 - 925.58	6500.71 - 6421.55
32	0.2657 - 0.2684	925.59 - 928.18	6421.54 - 6367.62
33	0.2685 - 0.2741	928.19 - 932.11	6367.61 - 6292.60
34	0.2742 - 0.2803	932.12 - 935.72	6292.59 - 6224.40
35	0.2804 - 0.2860	935.73 - 938.24	6224.39 - 6162.72
36	0.2861 - 0.2894	938.25 - 941.17	6162.71 - 6108.21
37	0.2895 - 0.2938	941.18 - 943.96	6109.20 - 6019.20
38	0.2939 - 0.2978	943.97 - 946.36	6019.19 - 5934.93
39	0.2980 - 0.3026	946.37 - 947.55	5934.92 - 5879.34
40	0.3027 - 0.3058	947.56 - 949.27	5879.33 - 5815.29
41	0.3059 - 0.3095	949.28 - 951.95	5815.28 - 5757.80
42	0.3096 - 0.3136	951.96 - 954.30	5757.79 - 5707.27
43	0.3137 - 0.3179	954.31 - 957.19	5707.26 - 5635.34
44	0.3180 - 0.3220	957.20 - 960.58	5635.33 - 5587.76
45	0.3221 - 0.3256	960.59 - 962.46	5587.75 - 5509.07
46	0.3257 - 0.3288	962.47 - 964.54	5509.05 - 5435.68
47	0.3289 - 0.3354	964.55 - 966.56	5435.67 - 5367.75
48	0.3355 - 0.3403	966.57 - 968.76	5367.74 - 5322.77
49	0.3404 - 0.3454	968.77 - 972.50	5322.76 - 5289.41
50	0.3455 - 0.3492	972.51 - 975.29	5289.39 - 5235.43

PART-A : CONTINUE

4 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.3493 - 0.3543	975.30 - 976.93	5235.42 - 5185.90
52	0.3544 - 0.3595	976.94 - 979.86	5185.89 - 5137.48
53	0.3596 - 0.3640	979.87 - 981.94	5137.46 - 5093.57
54	0.3641 - 0.3665	981.95 - 984.17	5093.55 - 5043.03
55	0.3667 - 0.3706	984.18 - 987.55	5043.02 - 4998.78
56	0.3707 - 0.3764	987.56 - 991.16	4998.77 - 4948.31
57	0.3765 - 0.3830	991.17 - 993.87	4948.30 - 4895.10
58	0.3831 - 0.3850	993.88 - 997.60	4895.09 - 4867.81
59	0.3851 - 0.3899	997.61 -1000.18	4867.80 - 4835.55
60	0.3900 - 0.3946	1000.19 -1003.24	4835.54 - 4798.70
61	0.3947 - 0.3999	1003.25 -1005.35	4798.69 - 4735.62
62	0.4000 - 0.4046	1005.36 -1008.00	4735.61 - 4684.24
63	0.4047 - 0.4097	1008.01 -1010.55	4684.23 - 4616.48
64	0.4098 - 0.4131	1010.56 -1013.55	4616.46 - 4578.07
65	0.4132 - 0.4178	1013.56 -1015.55	4578.05 - 4532.66
66	0.4179 - 0.4209	1015.56 -1019.23	4532.64 - 4495.82
67	0.4210 - 0.4301	1019.24 -1025.77	4495.80 - 4421.48
68	0.4302 - 0.4351	1025.78 -1029.31	4421.46 - 4354.18
69	0.4352 - 0.4420	1029.32 -1033.93	4354.17 - 4298.42
70	0.4421 - 0.4508	1033.94 -1038.28	4298.41 - 4230.77
71	0.4509 - 0.4569	1038.29 -1042.70	4230.76 - 4180.80
72	0.4570 - 0.4604	1042.71 -1045.19	4180.79 - 4137.60
73	0.4605 - 0.4669	1045.20 -1049.92	4137.59 - 4091.83
74	0.4670 - 0.4721	1049.93 -1052.92	4091.82 - 4041.84
75	0.4722 - 0.4775	1052.93 -1057.60	4041.83 - 3998.01
76	0.4776 - 0.4871	1057.61 -1063.49	3998.00 - 3941.60
77	0.4871 - 0.4924	1063.50 -1068.15	3941.59 - 3900.75
78	0.4925 - 0.5022	1068.16 -1074.88	3900.74 - 3824.10
79	0.5023 - 0.5092	1074.89 -1080.07	3824.09 - 3775.62
80	0.5093 - 0.5262	1080.08 -1083.18	3775.61 - 3708.14
81	0.5263 - 0.5347	1083.19 -1087.87	3708.13 - 3633.77
82	0.5348 - 0.5462	1087.88 -1095.59	3633.76 - 3593.12
83	0.5463 - 0.5555	1095.60 -1100.45	3593.11 - 3523.54
84	0.5556 - 0.5690	1100.46 -1110.48	3523.53 - 3471.47
85	0.5691 - 0.5832	1110.49 -1119.17	3471.46 - 3401.47
86	0.5833 - 0.6058	1119.18 -1129.29	3401.46 - 3331.50
87	0.6059 - 0.6249	1129.30 -1138.17	3331.49 - 3228.58
88	0.6250 - 0.6474	1138.18 -1152.87	3228.57 - 3165.26
89	0.6475 - 0.6737	1152.88 -1171.10	3165.25 - 3088.15
90	0.6738 - 0.6957	1171.11 -1188.30	3088.14 - 3010.37
91	0.6958 - 0.7185	1188.31 -1208.41	3010.36 - 2890.30
92	0.7186 - 0.7537	1208.42 -1221.25	2890.29 - 2770.60
93	0.7538 - 0.8025	1221.26 -1241.51	2770.59 - 2655.30
94	0.8026 - 0.8497	1241.52 -1262.74	2655.29 - 2499.82
95	0.8498 - 0.9006	1262.75 -1288.81	2499.81 - 2362.56
96	0.9007 - 0.9389	1288.82 -1313.17	2362.55 - 2103.40
97	0.9390 - 0.9882	1313.18 -1354.31	2103.39 - 1902.16
98	0.9883 - 1.0662	1354.32 -1419.30	1902.15 - 1669.07
99	1.0663 - 1.2827	1419.31 -1525.66	1669.06 - 1435.75
100	1.2828+	1525.67+	1435.74 - 1.00

PART-B : SPECIAL NEEDS

4 YR PRIVATE

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 - 0.0787	0.01 - 710.86	15038.08+
2	0.0788 - 0.1102	710.87 - 747.49	15038.07 -12102.52
3	0.1103 - 0.1285	747.50 - 781.80	12102.51 -10642.75
4	0.1286 - 0.1434	781.81 - 811.30	10642.74 -10186.97
5	0.1435 - 0.1613	811.31 - 836.72	10186.96 - 9418.54
6	0.1614 - 0.1729	836.73 - 858.86	9418.53 - 8833.39
7	0.1730 - 0.1849	858.87 - 872.75	8833.38 - 8294.02
8	0.1850 - 0.1932	872.76 - 893.98	8294.01 - 8074.15
9	0.1933 - 0.2048	893.99 - 906.57	8074.14 - 7766.44
10	0.2049 - 0.2117	906.58 - 918.81	7766.43 - 7522.10
11	0.2118 - 0.2202	918.82 - 926.81	7522.09 - 7289.51
12	0.2203 - 0.2282	926.82 - 942.52	7289.50 - 7070.71
13	0.2283 - 0.2340	942.53 - 952.46	7070.70 - 6897.70
14	0.2341 - 0.2402	952.47 - 958.18	6897.69 - 6705.99
15	0.2403 - 0.2471	958.19 - 965.37	6705.98 - 6500.73
16	0.2472 - 0.2537	965.38 - 977.71	6500.71 - 6367.62
17	0.2538 - 0.2611	977.72 - 986.23	6367.61 - 6224.40
18	0.2612 - 0.2653	986.24 - 996.71	6224.39 - 6108.21
19	0.2654 - 0.2713	996.72 -1008.41	6108.20 - 5934.93
20	0.2714 - 0.2787	1008.42 -1017.71	5934.92 - 5815.29
21	0.2788 - 0.2864	1017.72 -1027.85	5815.28 - 5707.27
22	0.2865 - 0.2963	1027.86 -1035.14	5707.26 - 5587.76
23	0.2964 - 0.3049	1035.15 -1043.20	5587.75 - 5435.68
24	0.3050 - 0.3124	1043.21 -1054.51	5435.67 - 5322.77
25	0.3125 - 0.3207	1054.52 -1065.47	5322.76 - 5235.43
26	0.3208 - 0.3293	1065.48 -1075.85	5235.42 - 5137.48
27	0.3294 - 0.3373	1075.86 -1084.42	5137.46 - 5043.03
28	0.3374 - 0.3469	1084.43 -1094.79	5043.02 - 4948.31
29	0.3470 - 0.3549	1094.80 -1109.66	4948.30 - 4867.81
30	0.3550 - 0.3649	1109.67 -1120.25	4867.80 - 4798.70
31	0.3650 - 0.3713	1120.26 -1134.01	4798.69 - 4684.24
32	0.3714 - 0.3806	1134.02 -1144.11	4684.23 - 4578.07
33	0.3807 - 0.3895	1144.12 -1154.23	4579.05 - 4495.82
34	0.3896 - 0.4004	1154.24 -1164.77	4495.80 - 4354.18
35	0.4005 - 0.4070	1164.78 -1182.91	4354.17 - 4230.77
36	0.4071 - 0.4193	1182.92 -1195.00	4230.76 - 4137.60
37	0.4194 - 0.4297	1195.01 -1212.65	4137.59 - 4041.84
38	0.4298 - 0.4400	1212.66 -1228.48	4041.83 - 3941.60
39	0.4401 - 0.4541	1228.49 -1246.34	3941.59 - 3824.10
40	0.4542 - 0.4621	1246.35 -1262.22	3824.09 - 3708.14
41	0.4622 - 0.4753	1262.23 -1296.73	3708.13 - 3593.12
42	0.4754 - 0.4950	1296.74 -1317.78	3593.11 - 3471.47
43	0.4951 - 0.5140	1317.79 -1343.19	3471.46 - 3331.50
44	0.5141 - 0.5445	1343.20 -1374.29	3331.49 - 3165.26
45	0.5446 - 0.5793	1374.30 -1410.88	3165.25 - 3010.37
46	0.5794 - 0.6127	1410.89 -1446.60	3010.36 - 2770.60
47	0.6128 - 0.7043	1446.61 -1517.31	2770.59 - 2499.82
48	0.7044 - 0.8032	1517.32 -1603.72	2499.81 - 2103.40
49	0.8033 - 0.9521	1603.73 -1763.08	2103.39 - 1669.07
50	0.9522+	1763.09+	1669.06 - 1.00

PART B: SPECIAL NEEDS

GRADUATE PUBLIC

POINTS	NEED PERCENT	NEED DOLLARS
1	0.0001 - 0.0942	0.01 - 545.59
7	0.0943 - 0.1869	545.60 - 1380.94
19	0.1870 - 0.3619	1380.95 - 1408.23
32	0.3620 - 0.3785	1408.24 - 1675.49
50	0.3786+	1675.50+

PART B: SPECIAL NEEDS

GRADUATE PRIVATE

POINT	NEED PERCENT	NEED DOLLAR
1	0.0001 - 0.0176	0.01 - 449.61
2	0.0177 - 0.0248	449.62 - 577.11
3	0.0249 - 0.0315	577.12 - 595.20
4	0.0316 - 0.0401	595.21 - 618.31
5	0.0402 - 0.0567	618.32 - 669.46
6	0.0568 - 0.0618	669.47 - 728.18
7	0.0619 - 0.0635	728.19 - 783.84
8	0.0636 - 0.0650	783.85 - 813.56
9	0.0651 - 0.0863	813.57 - 848.67
10	0.0864 - 0.0994	848.68 - 873.85
11	0.0995 - 0.1018	873.86 - 881.80
12	0.1019 - 0.1028	881.81 - 897.93
13	0.1029 - 0.1113	897.94 - 949.89
14	0.1114 - 0.1170	949.90 - 968.59
15	0.1171 - 0.1299	968.60 - 969.71
16	0.1300 - 0.1419	969.72 -1011.31
17	0.1420 - 0.1461	1011.32 -1018.04
18	0.1462 - 0.1478	1018.05 -1024.48
19	0.1479 - 0.1605	1024.49 -1030.75
20	0.1606 - 0.1629	1030.76 -1071.02
21	0.1630 - 0.1737	1071.03 -1100.22
22	0.1738 - 0.1777	1100.23 -1112.27
23	0.1778 - 0.1785	1112.28 -1127.49
24	0.1786 - 0.1816	1127.50 -1301.17
25	0.1817 - 0.1855	1301.18 -1360.01
26	0.1856 - 0.1913	1360.02 -1369.27
27	0.1914 - 0.1977	1369.28 -1415.09
28	0.1978 - 0.2021	1415.10 -1444.43
29	0.2022 - 0.2044	1444.44 -1448.95
30	0.2045 - 0.2062	1448.96 -1512.23
31	0.2063 - 0.2098	1512.24 -1517.85
32	0.2099 - 0.2130	1517.86 -1543.44
33	0.2131 - 0.2307	1543.45 -1584.03
34	0.2308 - 0.2367	1584.04 -1589.99
35	0.2368 - 0.2400	1590.00 -1604.72
36	0.2401 - 0.2618	1604.73 -1635.81
37	0.2619 - 0.2625	1635.82 -1643.40
38	0.2626 - 0.2736	1643.41 -1664.07
39	0.2737 - 0.2833	1664.08 -1766.45
40	0.2834 - 0.2858	1766.46 -1802.77
41	0.2859 - 0.2954	1802.78 -1945.64
42	0.2955 - 0.3064	1945.65 -1955.76
43	0.3065 - 0.3174	1955.77 -2028.77
44	0.3175 - 0.3203	2028.78 -2258.91
45	0.3204 - 0.3520	2258.92 -2275.66
46	0.3521 - 0.3717	2275.67 -2580.90
47	0.3718 - 0.4614	2580.91 -2772.57
48	0.4615 - 0.5237	2772.58 -3400.06
49	0.5238 - 0.6939	3400.07 -3563.35
50	0.6940+	3563.36+

[FR Doc. 85-11900 Filed 5-15-85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

Intent (NOI) To Prepare an Environmental Impact Statement on Decommissioning the Eight Shutdown Production Reactors Located at the Hanford Site Near Richland, WA

AGENCY: Department of Energy.

ACTION: Notice is hereby given that the Department of Energy (DOE) intends to prepare an Environmental Impact Statement (EIS) pertaining to the decommissioning of eight federally owned, shutdown production reactors located at the DOE Hanford Site, in the State of Washington.

SUMMARY: The DOE announces its intent to prepare an EIS, in accordance with section 102(2)(C) of the National Environmental Policy Act (NEPA), to provide environmental input into the decision on the proposed selection and implementation of a decommissioning alternative for the eight shutdown production reactors at the Hanford Site, near Richland, Washington. The DOE's Hanford Site is a 570 square mile, controlled access area that is dedicated to a variety of nuclear-related activities which include producing nuclear power for commercial use, waste management, defense reactor operations, fuel fabrication/processing and nuclear research. This EIS will consider only the disposition of the eight reactors, associated fuel storage basins, and buildings used to house these systems, located in the 100 Area of the Hanford Site in general.

The purpose of this NOI is to present pertinent background information on the proposed scope and contents of the EIS, and to invite interested agencies, organizations, and members of the general public to submit comments or suggestions for consideration in connection with the preparation of the draft EIS.

Upon completion of the draft EIS, its availability will be announced in the Federal Register and local news media for public review and comments. Comments received on the draft will be used in preparing the final EIS.

ADDRESS: DOE invites interested agencies, organizations, and the general public to submit comments or suggestions for consideration in the preparation of th EIS. Written comments or suggestions on the scope of the EIS may be submitted to: Judy L. Torkaz, External Affairs Officer, US/DOE, RL, P.O. Box 550, Richland, WA 99352, (509) 376-7378.

For general information on the DOE EIS process, please contact: Office of the Assistant Secretary for Policy, Safety, and Environment, U.S. Department of Energy, Attn: Ms. Carol M. Borgstrom, PE-252, Forrestal Building, Room 3G092, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-4600.

Written comments postmarked within 30 days of publication of this NOI in the Federal Register will be considerd in the preparation of the draft EIS. Comments received after that date will be considered to the degree practicable.

Background

In 1943, the Manhattan Engineer District of the U.S. Corps of Engineers selected the 570 square mile Hanford Site in Southeastern Washington for production of special nuclear materials, principally plutonium, for national defense activities. Between 1943 and 1955, eight graphite moderated reactors were constructed at the Site, approximately 30 miles north of Richland, Washington, along the Columbia River, to support the plutonium production effort. They are the B, C, D, DR, F, H, KE, and KW reactors. A ninth production reactor, N Reactor, was started up in 1963 and is still in operation. The decommission of N Reactor is not within the scope of this EIS.

The Hanford reactors were operated by the U.S. Atomic Energy Commission and its successors the U.S. Energy Research and Development Administration (ERDA) and the U.S. Department of Energy (DOE).

In early 1964, a presidential decision to begin closing down the older Hanford reactors resulted in deactivating and removing the fuel from all eight reactor sites by the end of 1971. Due to the technical nature of the reactors, their unique design and purposes, and the age of the facilities, no future long-term beneficial use has been identified. The eight reactors contain irradiated reactor components, and the buildings that house the reactors are all contaminated to some degree with low levels of radioactivity. Safe storage of the reactors, since deactivation, has consisted of short-term surveillance and maintenance actions adequate to protect the workers and the environment.

Proposed action

The proposed decommissioning of the shutdown reactors will permanently remove or better isolate any remaining radioactive wastes in a manner that minimizes the potential health and safety impacts onthe pubic and the environment. The proposed EIS will evaluate several decommissioning alternatives for potential short-term and long-term environmental impacts, and for engineering and cost considerations.

Preliminary Definition of Alternatives To Be Considered in the EIS

1. Safe Storage/Deferred Dismantlement

This alternative involves temporarily storing the reactor in a safe, secure status for a predetermined period of time to allow decay of resident radionuclides to a level permitting hands-on, low radiation exposure dismantlement work. For the eight ractors, the estimated storage period is 75 years. If this alternative were implemented, some additional upgrading of the reactor buildings would be needed, followed by a continued routine maintenance and suveillance program with major maintenance repairs of the buildings conducted every 20 years. After 75 years, the reactors would then be dismantled piece by piece and any remaining radioactive waste transported to approved low-level waste burial areas on the Hanford Site. The maximum distance from the reactors to the proposed burial site is approximately 15 miles, with the transport routes being entirely within the Hanford Site.

2. Immediate Dismantlement

In this alternative, the entire reactor facility is promptly removed from the present reactor site. All radioactive waste material is packaged and transported to an approved low-level waste burial area on the Hanford Site. Dismantlement is accomplished by first removing facility equipment and materials for reuse or disposal, and then demolishing the building. The reactor block is removed in one piece by excavating under the block, positioning a tractor crawler under it, and slowly lowering the block onto the platform. Once the reactor block is physically and radiologically secured aboard the crawler, the crawler is driven across the Hanford Site along predetermined route to the waste burial area. The 15 mile trip to the wast burial area would take approximately 48 hours per reactor.

3. *In Situ Disposal*

In situ disposal involves leaving the reactor at its present location, as opposed to relocating it to an alternate waste disposal area on the Hanford Site. Facility equipment, reactor components, and other materials that have a potential for reuse are removed. The reactor block is left intact on its foundation, with special care taken to prevent damage to it during the in situ decommissioning process. Loose

external contamination is immobilized, major voids filled, and potential pathways (openings) such as large pipes and air ducts are sealed. Then the perimeter portions of the reactor building are demolished. To complete the process, building rubble, earth, and gravel are used to form an earthen mound over the reactor block. The mound will act as a long-term protective barrier to isolate the radioactive wastes from pathways to man and the environment.

4. *No Action*

This alternative involves leaving the reactors in place and continuing the present maintenance and surveillance program, including periodic major repairs, until the reactors no longer have potential for impacting the environment.

The DOE believes that these alternatives encompass the range of reasonable alternatives to be considered in the EIS. Comments on the scope and definition of these alternatives, as well as suggestions on other reasonable alternatives which the DOE should consider, are invited. The DOE will recommend a preferred alternative in the Draft EIS.

Identification of Environmental Issues

The following is a list of issues that will be analyzed in this EIS; this list is intended neither to be all inclusive nor a predetermination of impacts:

- Effects on the general population from emissions of radiologic and nonradiologic releases caused by decommissioning operations.
- Magnitude of exposure of decommissioning personnel to radiologic and nonradiologic releases during decommissioning operations.
- Offsite (general population) effects resulting from potential accidents.
- Effect on air and water quality and other environmental consequences during short-term and long-term decommissioning operations.
- Applicable regulations and guidelines.
- Onsite transportation impacts.
- Short-term versus long-term land use.
- Irretrievable and irreversible commitment of resources.
- Socioeconomic impacts to surrounding communities.
- Mitigation measures.

Scoping and Comments

All interested parties are invited to submit comments or suggestions in connection with the preparation and scoping of the EIS. Comments are invited on both the alternatives and the issues to be considered in the EIS.

No public scoping meeting is scheduled at this time; however, DOE will determine the need for a public scoping meeting after reviewing the comments received in response to this NOI. If it is deemed necessary to hold a public scoping meeting, a place, date, and time will be selected and advance notice provided.

Those interested parties who do not wish to submit comments or suggestions at this time, but who would like to receive a copy of the Draft EIS for review and comment, should notify Judy L. Torkaz (address above). A copy of the comments received on this NOI, other NEPA documents, and major references used in the preparation of this NOI and Draft EIS will be made available during normal business hours at the following locations:

U.S. Department of Energy, Forrestal Building, FOI Reading Room, Room IE–190, 1000 Independence Avenue, Washington, DC 20585

Pasco Public Library, 1320 West Hopkins, Pasco, WA 99301, (509) 545–3451

Walla Walla Public Library, 238 East Alder, Walla Walla, WA 99362, (509) 525–5353

Kennewick Public Library, 405 South Dayton, Kennewick, WA 99336, 1–800–572–6251 or (509) 586–3156

Richland Public Library, Swift & Northgate, Richland, WA 99352, (509) 943–9117

Yakima Valley Main Public Library, 102 North 3rd Street, Yakima, WA 98901, (509) 452–8541

RL Public Library, P.O. Box 800, Federal Building, Room 157, Richland, WA 99352, (509) 376–8583.

Dated in Washington, D.C., this 10th day of May 1985, for the United States Department of Energy.

William A. Vaughan,

Acting Assistant Secretary for Policy, Safety, and Environment.

[FR Doc. 85–11906 Filed 5–15–85; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Cases Filed; Week of April 5 Through April 12, 1985

During the Week of April 5 through April 12, 1985, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

May 7, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Apr. 5 through Apr. 12, 1985]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 17, 1985	Economic Regulatory Administration, Washington, DC	HRZ-0239	Request for Interlocutory Order. If granted: The Proposed Remedial Order issued to Ozark County Gas, Inc. (Case No. HRO-0239) would be withdrawn without prejudice to a future refiling.
Mar. 1, 1985	Economic Regulatory Administration, Washington, DC	HRZ-0240	Request for Interlocutory Order. If granted: The Proposed Remedial Order issued to Ozark County Gas, Inc. (Case No. HRO-0239) would be modified as to the amount of the alleged overcharges.
Apr. 8, 1985	Bale Oil Co., Horse Cave, KY	HEE-0140	Exception to the Reporting Requirements. If granted: The Bale Oil Co. would no longer be required to file Form EIA-782B "Resellers/Retailers' Monthly Petroleum Product Sales Report".
Do	Don Anderson Oil Co., Chillicothe, MO	HEE-0138	Exception to the Reporting Requirements. If granted: Don Anderson Oil Co. would no longer be required to file certain EIA reports.
Do	Echols Oil Co., Inc., Greenville, SC	HEE-0139	Exception to the Requirements. If granted: Echols Oil Co., Inc. would no longer be required to file Form EIA-782B "Resellers/Retailers' Monthly Petroleum Product Sales Report".

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Apr. 5 through Apr. 12, 1985]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 9, 1985	H. Michael Clyde, Pheonix, AZ	HFA-0283	Appeal of an Information Request Denial. If granted: The Mar. 25, 1985, Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded and Mr. Clyde would receive access to certain DOE documents.
Do	Mid-West Oil, Ltd., Enid, OK	HEE-0141	Exception to the Reporting Requirements. If granted: Mid-West Oil, Ltd. would not longer be required to file form EIA-782B "Resellers/Retailers' Petroleum Product Monthly Sales Report".
Do	Peter L. Hirschburg, Washington, DC	HRR-0100	Request for Modification/Rescission. If granted: The Apr. 3, 1985 Decision and Order issued to the Economic Regulatory Administration (Case Nos. HRZ-0236 and HRZ-0237) would be modified regarding the joining of Peter L. Hirschburg as a party to the Proposed Remedial Order (Case No. HRO-0247).
Apr. 10, 1985	Ed Joyce Fuel & Feeds, Geraldine, MT	HEE-0143	Exception to the Reporting Requirements. If granted: Ed Joyce Fuel & Feeds would no longer be required to file certain EIA reporting forms.
Do	Island Close-up News Service, Sag Harbor, NY	HFA-0285	Appeal of an Information Request Denial. If granted: The Island Close-up News Service would receive a waiver of fees entailed by a Freedom of Information request concerning a Plutonium-fueled generator.
Do	Ivan Von Zuckerstein, Darien, IL	HFA-0284	Appeal of an Information Request Denial. If granted: The Mar. 28, 1985, Freedom of Information Request Denial issued by the Chicago Operations Office would be rescinded, and Ivan Von Zuckerstein would receive full access to the Phase 2 RCS report.
Do	Pettway Oil Co., Chattanooga, TN	HEE-0142	Exception to the Reporting Requirements. If granted: Pettway Oil Co. would no longer be required to file Form EIA-782B "Resellers/Retailers' Monthly Petroleum Products Sales Report".
Apr. 11, 1985	International Brotherhood of Electrical Workers, Portland, OR.	HFA-0286	Appeal of An Information Request Denial. If granted: The Mar. 4, 1985, Freedom of Information Request Denial issued by the Bonneville Power Administration would be rescinded, and the International Brotherhood of Electrical Workers would receive full access to certain certified payroll reports.
Apr. 12, 1985	Juniper Petroleum Corp., Washington, DC	HEF-0579	Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR, Part 205, Subpart V, in connection with a Mar. 6, 1981, Court Order issued to the Juniper Petroleum Corp.

REFUND APPLICATIONS RECEIVED

[Week of Apr. 5 to Apr. 12, 1985]

Date received	Name of refund proceeding/name of refund applicant	Case No.
4/08/85	APCO/Vasey Tire & Gas	RF83-7.
4/08/85	Midwest Industrial Fuels/Big Bear	RF82-2.
4/08/85	Little America Refining/Silco Oil Co.	RF112-7.
4/08/85	Hertz Corp./American Can Co.	RF76-128.
4/08/85	Hertz Corp./Marley Cooling Tower Co.	RF76-129.
4/08/85	Handel's Inc./Machmik Bros., Inc.	RF79-12.
4/08/85	Bayou State Oil/Idan Gasoline/ C.C. Dickson, Jr.	RF117-2.
4/09/85	Seminole Refining/Engelhard Corp.	RF111-7.
3/25/85	Alkek/Adams/Texaco Refining & Marking, Inc.	RF6-68.
3/25/85	Alkek/Adams/Texaco, Inc.	RF6-67.
3/25/85	Alkek/Adams/Mohawk Petroleum Corp.	RF6-66.
3/22/85	Alkek/Adams/Exxon Company, USA.	RF6-65.
4/08/85	Tenneco/H.O. Anderson, Inc.	RF7-124.
4/08/85	Tenneco/Holden Oil Co., Inc.	RF7-125.
3/29/85	Amoco/Hall's Standard Service	RF21-12390.
		RF21-12391.
4/09/85	Hertz Corp./Hammermill Paper Co.	RF76-130.
4/09/85	Hertz Corp./General Cable Co.	RF76-131.
4/09/85	Hertz Corp./Champion Spark Plug Co.	RF76-132.
4/09/85	Hertz Corp./American Home Products Corp.	RF76-133.
4/09/85	Hertz Corp./Anheuser Busch Companies.	RF76-134.
4/09/85	Hertz Corp./The Nestle Co.	RF76-135.
4/09/85	Hertz Corp./Western Co. of North America.	RF76-136.
4/09/85	Hertz Corp./Hexcel Corp.	RF76-137.
4/09/85	Hertz Corp./Pillsbury Co.	RF76-138.
4/09/85	Hertz Corp./CBS, Inc.	RF76-139.
4/09/85	Hertz Corp./Reliance Electric	RF76-140.
4/09/85	APCO/Wilhelm Oil Co.	RF3-8.
4/11/85	APCO/Krause Gentle Oil Corp.	RF83-12.
4/11/85	APCO/Warin Oil Co.	RF83-11.
4/11/85	APCO/Kenny's Apco.	RF83-10.
4/11/85	APCO/Manning Oil Co., Inc.	RF83-9.
4/11/85	Hendel's Inc./Rou's Chevron	RF79-13.
4/11/85	Hendel's Inc./Coffee's Chevron	RF79-14.
4/11/85	APCO/Yuska Oil Co.	RF83-13.

REFUND APPLICATIONS RECEIVED—Continued

[Week of Apr. 5 to Apr. 12, 1985]

Date received	Name of refund proceeding/name of refund applicant	Case No.
4/11/85	Hertz Corp./Arthur Young International.	RF76-141.
4/12/85	APCO/Dee-Jay Petroleum, Inc.	RF83-14.
4/12/85	Kiesel Co./Security Armored Car Service.	RF126-1.
4/12/85	Kiesel Co./Scrap Metal Processors.	RF126-2.
4/08/85 to 4/12/85	Gulf Refund Applications	RF40-3006 thru RF40-3013.

[FR Doc. 85-11806 Filed 5-15-85; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding a $4,800,000 consent order fund to members of the public. This money is being held in escrow following the settlement of an enforcement proceeding involving Quaker State Oil Refining Corp. (Case No. HEF-0219.)

DATE AND ADDRESS: Comments must be filed on or before June 17, 1985 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to Case No. HEF-0219.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set forth below. The Proposed Decision relates to a consent order entered into by Quaker State Oil Refining Corp. (Quaker State) and the DOE which settled possible regulatory violations in the firm's sales of refined petroleum products during the consent period, January 1, 1973 through January 28, 1981.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the escrow account funded by Quaker State pursuant to the consent order. The DOE has tentatively established procedures under which purchasers of Quaker State refined petroleum products during the consent order period may file claims for refunds. Applications for Refund should not be filed at this time. Appropriate public notice will be

given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals located in Room 1E–234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: May 7, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

May 7, 1985.

Name of Firm: Quaker State Oil Refining Corporation.

Date of Filing: October 13, 1983.

Case Number: HEF–0219.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to make refunds in order to remedy the effects of actual or alleged violations of DOE regulations. *See* 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable readily to ascertain the persons who were injured or the amounts that such persons may be eligible to receive as a result of enforcement proceedings. *See Office of Enforcement*, 9 DOE ¶ 82,553 at 85,284 (1982).

I. Background

Quaker State Oil Refining Corporation (Quaker State) is engaged in the production, refining, and sale of crude oil and refined petroleum products as well as other petroleum related activities, and was therefore subject to the Mandatory Petroleum Allocation and Price Regulations set forth at 10 CFR Parts 210, 211 and 212.

A DOE audit of Quaker State's refining and marketing operations during the period August 1, 1973 through December 1978 revealed possible regulatory violations with respect to the firm's pricing of refined petroleum products.[1] In order to settle all claims and disputes between the parties concerning Quaker State's (and its affiliates' and subsidiaries')[2] compliance with the price and allocation regulations during the period January 1, 1973 through January 28, 1981 (the consent order period),[3] Quaker State and the DOE executed a consent order on March 5, 1982, whereby Quaker State agreed to deliver to the Strategic Petroleum Reserve of the United States (SPR) a quantity of crude oil valued at $4,800,000 or, in the alternative, to pay the DOE the balance of its refund obligation. The consent order refers to the DOE's allegations of regulatory violations, but notes that no findings of violation were made. Additionally, the consent order states that Quaker State does not admit that it committed any such violations. Notice of the proposed consent order was published on April 12, 1982 (47 FR 15641), and interested persons were invited to submit comments. On September 3, 1982, the proposed consent order was made final with few modifications. 47 FR 38968 (September 3, 1982). On that same date, in accordance with Paragraph 404(h) of the final consent order, Quaker State deposited $4,800,000 with the DOE in lieu of delivering crude oil to the SPR. This Proposed Decision concerns the distribution of the $4,800,000 that was deposited in the escrow account, plus accrued interest.

II. Jurisdiction

The Subpart V procedural regulations of the DOE set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. After reviewing the record in this proceeding, we have concluded that it is difficult to identify potentially injured parties and to readily ascertain the extent to which such parties may have been injured by Quaker State's pricing practices. Under these circumstances, Subpart V provides a useful mechanism for devising a procedure to effect restitution. The OHA will therefore accept jurisdiction over the funds received by the DOE pursuant to the Quaker State consent order.

III. Proposed Refund Procedures

We propose that the Quaker State consent order fund be distributed to claimants who satisfactorily demonstrate that they were injured by Quaker State's alleged regulatory violations. The information available to us at this time regarding Quaker State's operations during the consent order period indicates that Quaker State operated primarily in Pennsylvania, West Virginia, New York, and Ohio, but that the firm's primary refined products, lubricating oils, were sold through intermediate resellers and retailers throughout the United States. We expect that claimants will fall into two general categories: (i) Refiners, resellers and retailers (hereinafter collectively referred to as resellers) who resold Quaker State petroleum products and (ii) individuals or firms that consumed Quaker State petroleum products for their own use (end-users). Although the consent order period covers the period from January 1, 1973 through January 28, 1981, applicants may only claim refunds with respect to purchases of a particular product during the time it was subject to price controls.[4]

To demonstrate injury, a reseller claimant must provide evidence that it would have maintained its prices for the petroleum products purchased from Quaker State at the same level had the alleged overcharges not occurred. While there are a variety of ways to make this showing, a reseller should generally demonstrate that at the time it purchased petroleum products from Quaker State, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. *See OKC Corp./Hornet Oil Co.*, 12 DOE ¶ 85,168 (1985); *Tenneco Oil Co./Mid-Continent Systems, Inc.*, 10 DOE ¶ 85,009 (1982). In addition, a reseller that files a claim based upon Quaker State's pricing practices will be required to show that it maintained "banks" of unrecovered increased product costs in order to demonstrate that it did not subsequently recover those costs by increasing its prices. *See Office of Enforcement*, 10 DOE ¶ 85,029 at 88,125 (1982). The maintenance of banks will not, however, automatically establish injury. *See, e.g.,*

[1] The alleged violations included the misallocation of crude oil costs, improper treatment of product exchanges, improper treatment of cost overrecoveries, cessation of customary credit practices to dealers and to Quaker State credit card holders, and overcharges in motor oil sales.

[2] Quaker State's subsidiaries include Corn Brothers, Inc., Jamestown Design and Machine Corp., Fetterley Oil Company, Producers Gathering Company, Inc., Truck-Lite Company, Inc., Corey Oil Company, and Palmer Oil Company, Inc.

[3] Quaker State's crude oil sales and rights or obligations under the Entitlements Program were expressly excluded from the settlement agreement. *See* Consent Order ¶ 501.

[4] Motor gasoline was decontrolled on January 28, 1981, middle distillates were decontrolled on June 30, 1976, and lubricants were decontrolled on August 31, 1976. *See* Fed. Energy Guidelines, Petroleum Regulations 1974–1981, ¶ 14,535 at 14,014–15.

Tenneco Oil Co./Chevron U.S.A., 10 DOE ¶ 85,014 (1982).

As in many prior special refund cases, we will adopt certain presumptions. First, we will adopt a presumption that the effects of the alleged price violations were dispersed equally in all sales of products sold by Quaker State during the consent order period. The OHA has referred to this presumption in the past as a volumetric refund amount. Second, we will adopt a presumption of injury with respect to small claims. Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. *See* 10 CFR 205.282(e). The presumptions we will adopt in this case are used to permit claimants to participate in the refund process without incurring disproportionate expenses, and to enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

The pro rata, or volumetric, refund presumption assumes that alleged overcharges were spread equally over all gallons of product marketed by Quaker State. In the absence of better information, this presumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. A volumetric refund amount is calculated by dividing the settlement amount by the total gallonage of products sold by the consent order firm during the consent order period. In the present case, based on the information available to us at this time, the volumetric refund amount is $0.001682 per gallon, exclusive of interest ($4,800,000 consent order fund divided by 2,949,106,155 gallons, the estimated total volume of refined petroleum products sold by Quaker State during the period). However, we recognize that the impact on an individual purchaser could have been greater than this volumetric refund amount, and we propose that any purchaser be allowed to file a refund application based on a claim that it bore a disproportionate share of the alleged overcharges. *See, e.g., Amtel, Inc.*, 12 DOE ¶ 85,073 at 88,233–34 (1984); *Sid Richardson Carbon & Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 at 88,164 (1984), and cases cited therein.

The presumption that reseller claimants seeking smaller refunds were injured by the pricing practices settled in the Quaker State consent order is based on a number of considerations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). As we have noted in many previous refund decisions, there may be considerable expense involved in gathering the data needed to support a detailed claim of injury. In order to substantiate such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost to the firm of gathering this factual information, and the cost to the OHA of analyzing it, may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions is also desirable from an administrative standpoint, because it allows the OHA to process a large number of routine refund claims quickly, and use its limited resources more efficiently.

Under the small claims presumption we are proposing to adopt, a reseller claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is below a threshold level.[5] Previous OHA refund decisions have expressed the threshold either in terms of a ceiling on purchases from the consent order firm or as a dollar refund amount. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would better effectuate our goal of facilitating disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. We propose to follow the same approach in this case. The adoption of a threshold level below which a claimant is not required to submit any further evidence of injury beyond volumes purchased is based on several factors. As noted above, we are especially concerned that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exeed the amount of the refund to be gained. In this case, where the time period of the consent order is quite distant and the volumetric refund amount is quite small, we believe that the establishment of a presumption of injury for all claims of $5,000 is reasonable. *See Texas Oil & Gas Corp.; Marion Corp.*, 12 DOE ¶ 85,014 (1985).

In addition to the presumptions we are adopting, we are making a finding that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the increased cost of petroleum products on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209 and cases cited therein. We therefore propose that end-users of Quaker State petroleum products need only document their purchase volumes from Quaker State to make a sufficient showing that they were injured by the alleged overcharges.[6]

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[5] A reseller that made only spot purchases from Quaker State shall be presumed not to have suffered an injury, and will therefore be ineligible to receive a refund, even one below the threshold level, unless it makes a showing that rebuts this presumption. As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Office of Enforcement, 8 DOE ¶ 82,597 at 85,396–97 (1981). We believe the same rationale holds true in the present case. Accordingly, a spot purchaser which files a claim should submit additional evidence to establish that it would be inappropriate to presume that the firm had discretion as to where and when to make the purchase[s] upon which the refund claim is based.

[6] We further propose to treat refund applications submitted by cooperatives as applications made on behalf of the consumers who are their ultimate customers. We have consistently excused cooperatives that acted as petroleum marketers from the requirement that they demonstrate that they did not pass through to their customers cost increases resulting from alleged oversharges. *See, e.g., Office of Special Counsel*, 9 DOE ¶ 82,538 (1982); *Office of Special Counsel*, 9 DOE ¶ 82,545 at 85,244 (1982). This determination was based on our finding that under the by-laws that control the financial practices of cooperatives, any overcharges incurred by a cooperative would have been passed through to its customers who, for the most part, are its member-owners, and, similarly, any refunds would be passed on to the current member-owners of the cooperative. In the present proceeding, we will treat cooperatives similarly, placing them in the same category as consumers and excusing them from the requirement that they make a detailed showing of injury with regard to that portion of their purchases that was resold to their members. We will, however, require cooperatives to specify in their applications the percentage of refined products they purchased from Quaker State during the consent order period that was resold to their members and to provide a full explanation of the manner in which refunds will be passed through to their members. With respect to that portion of their purchases from Quaker State that was resold to non-members, cooperatives will be treated in the same manner as other resellers.

Although the information we have reviewed in the Quaker State audit files did not reveal any alleged allocation violations, the consent order covers the firm's compliance with the allocation regulations. Therefore, we will accept claims based on Quaker State's allocation practices. We propose to adopt the guidelines described below which have been used for evaluating allocation claims in previous special refund cases. *See generally Office of Special Counsel*, 9 DOE ¶ 82,538 at 85,205–207 (1982).

Claims for refunds based on alleged allocation violations are substantially different than those based on alleged overcharges. Allocation claims are based on the consent order firm's alleged failure to furnish product which it was obliged to supply to the claimant under the DOE allegation regulations, 10 CFR Part 211. An allocation claimant should have been aware of the alleged violation at the time when it occurred, and should have taken some contemporaneous action to mitigate the injury. *Office of Spcial Counsel*, 10 DOE ¶ 85,048 at 88,220 (1982). We therefore propose to exclude from eligibility any allocation claimant which had not contemporaneously complained of Quaker State's alleged allocation violation. In addition, the measure of injury from the alleged violation is different for an allocation claimant. Allocation claimants have been awarded refunds in the nature of damages attributable to the monetary loss which was casued by the failure to deliver product. *See, e.g., Tenneco Oil Co./Research Fuels, Inc.*, 10 DOE ¶ 85,012 (1982). An allocation claimant should submit sufficient information to make a reasonable demonstration that its claim is well-founded, including the best available evidence of the injury which was sustained.

As in previous cases, we propose to establish a minimum refund amount of $15.00 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15.00 outweighs the benefits of restitution in those situations. *See, e.g. Uban*, 9 DOE at 85,225.

Detailed procedures for filing applications will be provided in a final Decision and Order. Before disposing of any of the funds received as a result of the consent order involved in this proceeding, we intend to publicize widely the distribution process to solicit comments on the proposed refund procedures and to provide an opportunity for any affected party to file a claim.

In the event that money remains after all first stage claims have been disposed of, undistributed funds could be distributed in a number of different ways. We will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Quaker State Oil Refining Corporation pursuant to the March 5, 1982 consent order as modified September 3, 1982, will be distributed in accordance with the foregoing Decision.

[FR Doc. 85–11805 Filed 5–15–85; 8:45 am]

BILLING CODE 6450–01–M

Implementation of Special Refund Procedures and Solicitation of Comments

AGENCY: Office of Hearings and Appeals, Energy.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $1,550,000 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings involving Good Hope Refineries, Inc., a refiner based in Good Hope, Louisiana that also owned a chain of motor gasoline stations in New England and New York under the "Gasland" brand name.

DATE AND ADDRESS: Comments must be filed on or before June 17, 1985 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should be conspicuously display a reference to case number HEF–0211.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–2094.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a consent order entered into by Good Hope Refineries, Inc., which settled possible violations of DOE price controls in the firm's sales of covered petroleum products to its customers during the August 1973 through July 1976 period.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account funded by Good Hope pursuant to the consent order. The DOE has tentatively established procedures under which purchasers of covered products during the audit period may file claims for refunds from the consent order fund. Applications for Refund should *not* be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: May 8, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

May 8, 1985.

Name of Firm: Good Hope Refineries, Inc.

Date of Filing: October 13, 1983.

Case Number: HEF–0211.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to make refunds in order to remedy the effects of actual or alleged violations of DOE regulations. *See* 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where DOE is unable readily to ascertain the persons who were injured or the amounts that such persons may be eligible to receive as a result of enforcement proceedings. *See Office of Enforcement*, 9 DOE ¶ 82,553 at 85,284 (1982).

I. Background

Good Hope Refineries, Inc. was a refiner as that term was defined in 10 CFR Part 212, and a wholly-owned subsidiary of good Hope Industries, Inc. (Good Hope). Good Hope Industries also owned Gasland, Inc., a chain of motor gasoline stations in three New England states and New York. Good Hope Refineries operated a refinery in Metairie, Louisiana, while Good Hope Industries had main offices located in Springfield, Massachusetts. The consent order covers all petroleum-related aspects of Good Hope Industries' operations. Several DOE audits of Good Hope's records revealed possible regulatory violations with respect to the firm's pricing of motor gasoline, diesel fuel, and other refined petroleum products, during the period August 19, 1973 through July 31, 1976 (hereinafter referred to as the consent order period). In order to settle all claims and disputes between Good Hope and the DOE regarding the firm's pricing of refined products during the consent order period, Good Hope and DOE entered into a consent order on July 31, 1979. Under the terms of the consent order, Good Hope was required to provide $15,000,000 in restitution, through: (i) Price rollbacks; (ii) reductions in its banks of unrecouped costs; and (iii) a direct cash payment to the DOE. At the time of the consent order, Good Hope was involved in bankruptcy proceedings. Since then Good Hope has fallen into arrears on its payments to the DOE. Enforcement of the Consent Order has been referred to the Department of Justice, and it is uncertain whether further payments will be received. Thus far, the DOE has received $1,550,000. This sum is being held in an interest-bearing escrow account established with the United States Treasury pending a determination of its proper distribution. As of March 31, 1985, the Good Hope escrow accont had earned $697,692 in interest. This Proposed Decision concerns the distribution of the $1,550,000 that was depositied into the escrow account, the accrued interest, and any further payments that the DOE may receive from Good Hope.

II. Jurisdiction

We have considered EAR's Petition for the Implementation of Special Refund Procedures and determined that it is appropriate to establish such a proceeding with respect to the Good Hope consent order fund. As we have stated in previous Decisions, refunding moneys obtained through DOE enforcement proceedings is the focus of Subpart V proceedings. *See, e.g., Office of Enforcement*, 8 DOE ¶ 82,597 (1981). Based upon our experience with Subpart V cases, we believe that the distribution of refunds in the present case should take place in two stages. In the first stage, we will attempt to refund money to identifiable purchasers of petroleum products who may have been injured by Good Hope's pricing practices during the period August 19, 1973 through July 31, 1976. After meritorious claims are paid in the first stage, a second stage refund procedure may become necessary. *See generally Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (hereinafter cited as *Amoco*) (refund procedures established for first stage applicants, second stage refund procedures proposed).

II. Proposed Refund Procedures

Insofar as possible, the consent order funds should be distributed to those customers of the consent order firms who were injured by the alleged price violations. In this case, the ERA audit file pertaining to the Consent Order lists the names of the customers who purchased refined products from the consent order firm, along with the pro rata amounts the ERA calculated the customers should be eligible to receive in a refund proceeding. This information is listed in the Appendix to this Proposed Decision and Order. However, we recognize that there may be other purchasers of petroleum products from these firms who were not listed in the ERA audit files and who may have been by the pricing practices of Good Hope during the relevant time period. We therefore propose to accept applications from any party that can show injury resulting from the consent order firms' alleged overcharges.

Most of the indentified customers of the consent order firms are resellers, i.e., retailers and wholesalers. We propose that these firms, and any other claimants who resold petroleum products purchased from one of the consent order firms, be required to demonstrate that they did not pass on to their customers price increases implemented by the consent order firm. *See, e.g., Vickers*. In addition, the reseller must show that it maintained a "bank" of unrecovered increased costs.

As in many prior special refund cases, we will adopt a presumtion of injury with respect to small claims. The use of presumtions in refund cases is specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> [i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we will adopt in this case are used to permit claimants to prticipate in the refund process without incurring disproportionate expenses, and to enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

The presumption that claimants seeking smaller refunds were injured by the pricing practices settled in the Good Hope consent order is based on a number of considerations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). As we have noted in many previous refund decisions, there may be considerable expenses involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost (to the firm) of gathering this factual information, and the cost (to the OHA) of analyzing it, may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions is also desirable from an administrative standpoint, because it allows the OHA to process a large number of routine refund claims quickly, and use its limited resources more efficiently. Finally, these smaller claimants did purchase covered products from Good Hope and were in the chain of distribution where the alleged overcharges occurred. Therefore, they bore some impact of the alleged overcharges, at least initially. The presumption eliminates the need for a climant to submit and the OHA to analyze detailed proof of what happened downstream of that initial impact.

Under the presumptions we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is below a threshold level. Previous OHA refund decisions have expressed the threshold either in terms of a ceiling on purchases from the consenting firm, or as a dollar refund amount. However, in

Texas Oil & Gas Corp., 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would better effectuate our goal of facilitating disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. We believe that the same approach should be followed in this case. The adoption of a threshold level below which a claimant is not required to submit any further evidence of injury beyond volumes purchased is based on several factors. As noted above, we are especially concerned that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In this case, we believe that the establishment of a presumption of injury for all claims of $5,000 is reasonable.[1] *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984); *Office of Special Counsel: In the Matter of Conoco, Inc.*, 11 DOE ¶ 85,226 (1984) and cases cited therein.

In addition to the presumptions we are adopting, we are making a finding that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209 and cases cited therein. We have therefore concluded that end-users of Good Hope petroleum products need only document their purchase volumes from Good Hope to make a sufficient showing that they were injured by the alleged overcharges.

We believe that if a reseller or retailer made only spot purchases from Good Hope, it is not likely to have suffered an injury. As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Office of Enforcement, 8 DOE ¶ 82,597 (1981) at 85,396–97 (hereinafter cited as *Vickers*). We believe the same rationale holds true in the present case. Accordingly, a spot purchaser which files a claim should submit additional evidence to establish that it was unable to recover the increased prices it paid for Good Hope petroleum products. *See Amoco* at 88,200.

IV. Calculation of Refund Amounts

We must further determine the proper method for dividing the consent order fund among successful applicants. Although we recognize that the ERA audit files do not provide conclusive evidence as to the identity of all injured parties or the amount of money they should receive in a Subpart V proceeding, we believe that this information can be used to fashion a refund plan which will correspond closely to the injuries experienced. *See e.g., Marion Corp.*, 12 DOE ¶ 85,014 (1984). Specifically, we note that the ERA attempted to ascertain the identities of the injured parties and the precise amount of injury after the completion of all of the audits covered by the consent order. The ERA found that Good Hope's alleged overcharges affected some customers more than others who purchased comparable volumes. We therefore propose that the refunds for the firms listed in the Appendix who make the requisite showing set forth in Part III of this Proposed Decision be equivalent to the potential refund amounts calculated by the ERA. These refund amounts, which are listed in the Appendix, represent a prorated portion of the alleged overcharges by Good Hope. Successful applicants will also receive a pro rata share of the interest which has accrued since the deposit of the funds into the escrow accounts.

However, some companies not listed by the ERA have notified the DOE that they believe they were injured by Good Hope's pricing practices. It is also possible that additional Good Hope customers who have not yet contacted the DOE may have been injured. A refund applicant who is not listed in the Appendix to this decision may also receive a refund based upon a volumetric method of allocating refunds. Under this method, a volumetric refund amount is calculated by dividing the settlement amount by our estimate of the total gallonage of products covered by the consent order. An applicant who wishes to apply for a refund of greater than the threshold amount according to the volumetric method will also be required to provide evidence of injury. In the present case, based on the information available to us at this time, the volumetric refund amount is $.000912 per gallon,[2] exclusive of interest. As of March 31, 1985, accumulated interest increased the volumetric refund amount to $.001322. Any applicant who establishes that it would receive a greater refund under the volumetric method than under the percentage method shall be entitled to the larger refund. *Marion Corp., supra.* In addition, as noted earlier, a customer who can show that it bore a disproportionate share of the impact of Good Hope's alleged overcharges may receive a refund larger than the volumetric level. *Standard Oil Co. (Indiana)/Army and Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984).

The precise amount of refunds that any claimant will receive is uncertain at the present time. First, it is possible that Good Hope will make additional payments into the escrow fund. This would increase the total refund available to each customer. Second, it is possible that some customers of Good Hope not listed in the audit file will be able to prove that were injured by Good Hope's pricing practices. This might decrease the total refund available to any customer who elected to apply according to the volumetric refund allocation. Accordingly, no refunds will be granted until after the deadline for filing aspplications has passed. *See Marion Corp.*, 12 DOE ¶ 85,014 (1984). If the DOE receives additional payments from Good Hope after refunds have been granted, each successful applicant (except those who elected to accept the $5,000 threshold level refund) will receive an additional pro rata refund.

As in previous cases, we will establish a minimum refund amount of $15.00 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15.00 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982).

Detailed procedures for filing applications will be provided in a final Decision and Order. Before disposing of any of the funds received as a result of the consent order involved in this proceeding, we intend to publicize

[1] Any claimant whose potential refund exceeds the threshold amount may elect to apply for a refund based on the threshold amount.

[2] According to the ERA audit file, during the audit period Good Hope sold 1,699,975,030 gallons of covered petroleum products. $1,550,000 divided by 1,699,975,030 equals $.0009118/gallon.

widely the distribution process to solicit comments on the proposed refund procedures and to provide an opportunity for any affected party to file a claim. In addition to publishing notice in the **Federal Register**, notice will be provided to the Independent Gasoline Marketers Council, the Petroleum Marketers Association of America, the Service Station Dealers of America, the National Association of Truck Stop Operators, and the Society of Independent Gasoline Marketers of America. These organizations should be helpful in advising potential claimants of this proceeding.

V. Distribution of the Remainder of the Consent Order Funds

In the event that money remains after all first stage claims have been disposed of, undistributed funds could be distributed in a number of different ways. For example, the funds may be distributed through plans formulated by state governments to benefit consumers who were likely injured by Good Hope's alleged overcharges. *See, e.g., Northeast Petroleum Industries*, 11 DOE ¶ 85,199 (1983). However, we will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed. We encourage the submission of comments containing proposals for alternative distribution schemes.

It is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Good Hope Industries, Inc. pursuant to the consent order executed on July 31, 1979 will be distributed in accordance with foregoing Decision.

APPENDIX

Customers listed in audit file	Percentage share of alleged overcharges
Standard Oil Company (Ohio), 20600 Chagrin Blvd., Cleveland, OH 44122	4.6370
Coastal States Marketing, Inc, 9 Greenway Plaza, Houston, TX 77046	0.1555
Stillings Petroleum Corporation, P.O. Box 700328, Tulsa, OK 74170	0.2923
Continental Oil Company, P.O. Box 2197, Houston, TX 77252	5.2449
Allied Oil, P.O. Box 6479, Cleveland, OH 44101	3.2721
Texaco, Incorporated, 2000 Westchester Ave., White Plains, NY 10650	4.0074
Wanda Petroleum, P.O. Box 53120, Houston, TX 77052	0.0560
Charter International Oil Co., P.O. Box 5008, Houston, TX 77012	1.3055
Consolidated Edison, 4 Irving Place, New York, NY 10003	6.9966
Cities Service Oil Company, P.O. Box 300, Tulsa, OK 74102	1.3287
Union Oil of California, 461 S. Boylston St., Los Angeles, CA 90017	0.5162
Texas Olefins, 2 Park West Plaza, Baytown, TX 77520	1.0336
Coral Petro, P.O. Box 19666, Houston, TX 77224	3.0205

APPENDIX—Continued

Customers listed in audit file	Percentage share of alleged overcharges
Exxon Corporation, P.O. Box 2180, Houston, TX 77001	2.0854
Saber Petroleum, 1400 Smith Street, Suite 1700, Houston, TX 77002	3.9686
Apex Oil Company, 7930 Clayton Rd., St. Louis, MO 63117	8.0581
Thomas Reidy, 1100 Milam St., Suite 2170, Houston, TX 77002	2.0221
Systems Fuels, P.O. Box 61532, New Orleans, LA 70161	4.1186
Tauber Oil Company, P.O. Box 4645, Houston, TX 77210	3.8785
Amoco, 200 E. Randolph Drive, Chicago, IL 60601	17.6850
L&L Oil Company, Rt. 1, Box 367, Crown Point, LA 70072	0.0182
Ashland Petroleum, P.O. Box 391, Ashland, KY 41114	2.6550
Amerada Hess, 1185 Avenue of the Americas, New York, NY 10036	0.2985
Union Texas Petroleum, P.O. Box 2120, Houston TX 77252	0.0639
Sun Oil, 100 Matonsford Road, Radnor, PA 19087	0.4633
Don Love, P.O. Box 262507, Houston, TX 77207	0.0108
Marathon Oil, 539 S. Main Street, Findlay, OH 45840	2.0672
Gulf Oil, P.O. Box 3725, Houston, TX 77001	3.2329
Allied Chemical, P.O. Box 2120, Houston, TX 77252	0.0778
Bulk Oil, USA, Inc., 425 Park Avenue, New York, NY 10025	1.5209
Agway, 333 Butternut Drive, DeWitt, NY 03214	0.3691
Triangle Refining Company, P.O. Box 3367, Houston, TX 77253	0.0862
Northwell Industries Corporation, 35 Pine Lawn Rd., Melville, NY 11747	0.4221
Kerr McGee, Kerr-McGee Center, Oklahoma City, OK 73125	0.0417
Tenneco Oil, P.O. Box 2157, Houston, TX 77002	0.0823
Bray Terminals, P.O. Box 174, Marcy, NY 13403	0.1592
Toro Petroleum Corporation, Houston, TX	0.1965
Howard Oil, Maspeth, New York	1.9837
Texas City Refineries, New York, NY	1.0336
Franks Fuel	0.5594
Petroleum Heat and Power	2.0776
International Trade Limited, New Orleans, LA	0.3409
Patchogue Oil, Brooklyn, NY	0.5416
Baysett Transportation, Birmingham, Alabama	0.0069
Hol Petroleum, New York, NY	0.0018
Point Landing Fuel, Harahan, LA	0.2034
Val Cap, Incorporated, Alice, TX	0.1456
HiOctane Terminal Company Panama City, FL	0.1543
Gulf Coast Service Station, Westwego, LA	0.0568
Texas Star Oil Company, Corpus Christi, TX	0.0398
Pel-State Oil	0.0080
Koziol, Ware, MA	0.0013
Stafford	0.0032
Autotronic Systems, Houston, TX	0.0030
Timbros Service Stations, Middletown, CT	0.0127
Gasland, Inc., Retail sales	6.6009

[FR Doc. 85-11804 Filed 5-15-85; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Open Meeting; Rescheduling

Notice of Time for Meeting

The time of the May 22, 1985, meeting of the National Petroleum Council Open Meeting has been changed. The new time for the start of the meeting is 8:00 a.m. The notice of this meeting appeared in 50 FR 16340, Thursday, April 25, 1985 (FR Doc. 85-9978).

Issued at Washington, D.C. on May 14, 1985.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 85-12040 Filed 5-15-85; 11:17 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OW-FRL-2836-7]

Availability of the Mountain Communities Wastewater Management Alternatives Report

AGENCY: Environmental Protection Agency.

ACTION: Announcing the Availability of the Mountain Communities Wastewater Management Alternatives Report (EPA 904/10-84 124).

SUMMARY: EPA Region IV recently completed a report addressing alternatives for wastewater management in the mountainous region of the southeastern United States. The emphasis of the Mountain Communities Wastewater Management Alternatives Report is to provide a description of technical, financial and management alternatives appropriate for the provision of the wastewater facilities in the mountainous communities of the Southern Appalachians.

ADDRESSES: Copies of the Mountain Communities Wastewater Management Alternatives Report may be obtained by contacting: Mr. Robert C. Cooper, Project Officer, Environmental Assessment Branch, EPA-Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365 (Commercial Phone Number: 404/881-3776, FTS Number: 257-3776).

Dated: May 3, 1985.

John A Little,

Acting Deputy for Regional Administrator.

[FR Doc. 85-11842 Filed 5-15-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[No. 85-351]

Annual Disclosure Report

May 13, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board has submitted a request for extension, without revision, of its information collection, "Annual Disclosure Report"

to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Comments: Comments on the information collection request are welcome and should be submitted within 15 days of publication of this notice in the the **Federal Register.** Comments regarding the paperwork burden aspect of the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503, Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Requests for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552, Phone: 202–377–6933.

FOR FURTHER INFORMATION CONTACT: Cynthia Graae, Office of Examinations and Supervision. Phone: 202–377–6886.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 85–11890 Filed 5–15–85; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–433]

Madison County Federal Savings and Loan Association, Granite City, IL; Final Action; Approval of Conversion Application

May 9, 1985.

Notice is hereby given that on April 12, 1985, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Madison County Federal Savings and Loan Association, Granite City, Illinois for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secreatriat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Chicago, 111 East Wacker Drive, Room 700, Chicago, Illinois 60601.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 85–11893 Filed 5–15–85; 8:45 am]

BILLING CODE 6720–01–M

[No.: 85–350]

Change of Control of an Insured Institution or Savings and Loan Holding Company

May 13, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board has submitted a new request of its information collection, "Notice of Change of an Insured Institution or Savings and Loan Holding Company" to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Comments: Comments on the information collection request are welcome and should be submitted within 15 days of publication of this notice in the **Federal Register.** Comments regarding the paperwork burden aspect of the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503, Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Requests for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552, Phone: 202–377–6933.

FOR FURTHER INFORMATION CONTACT: Linda Lowry, Office of Examinations and Supervision. Phone: 202–377–6361.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 85–11889 Filed 5–15–15; 8:45 am]

BILLING CODE 6720–01–M

[No. 85–352]

Savings and Loan Holding Company Applications

May 13, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board has submitted a revised request of its information collection, "Savings and Loan Holding Company Applications" to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Comments: Comments on the information collection request are welcome and should be submitted within 15 days of publication of this notice in the **Federal Register.** Comments regarding the paperwork burden aspect of the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503, Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Requests for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552, Phone: 202–377–6933.

FOR FURTHER INFORMATION CONTACT: Charles Brewer, Office of Examinations and Supervision. Phone: 202–377–6849.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 85–11891 Filed 5–15–85; 8:45 am]

BILLING CODE 6720–01–M

[No: 85–353]

Savings and Loan Holding Company Reports

May 13, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board has submitted a request for extension, without revision, of its information collection, "Savings and Loan Holding Company Reports" to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

COMMENTS: Comments on the information collection request are welcome and should be submitted within 15 days of publication of this notice in the **Federal Register.** Comments regarding the paperwork burden aspect of the request should be directed to: Office of Management and Budget, Office of Information and

Regulatory Affairs, Washington, D.C. 20503, Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Requests for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552, Phone: 202-377-6933.

FOR FURTHER INFORMATION CONTACT: Cynthia Graae, Office of Examinations and Supervision. Phone: 202-377-6886.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 85-11892 Filed 5-15-85; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-434]

Smithville Savings and Loan Association, Smithville, TX.; Final Action Approval of Conversion Application

May 9, 1985.

Notice is hereby given that on April 18, 1985, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Smithville Savings and Loan Association, Smithville, Texas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, DC. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Dallas, 500 East John Carpenter Freeway, P.O. Box 619026, Dallas/Fort Worth, Texas 75261-9026.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 85-11894 Filed 5-15-85; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 84-34]

Shipping Conditions in the U.S./Argentina Trade; Order of Discontinuance

This proceeding was instituted on the Petition of A/S Ivarans Rederi (Ivarans) for issuance of rules to meet alleged conditions unfavorable to shipping in the United States trades with Argentina, pursuant to section 19, Merchant Marine Act of 1920 (46 U.S.C. app. 876). Ivarans' Petition alleged that certain laws, decrees and actions of the government of Argentina and certain Argentine-flag carriers, particularly relating to Argentine government Resolution 619 which restricts the carriage of Argentine export cargoes to members of a northbound pooling agreement, has resulted in conditions unfavorable to shipping which would preclude Ivarans from competing for cargoes in the northbound trade. Ivarans is not currently a member of the northbound pooling agreement.

The Commission published notice of the Petition in the **Federal Register** inviting public comment. (49 FR 40097, October 12, 1984). The Commission also asked the Departments of State and Transportation to attempt to reach an informal resolution of the problem through government-to-government initiatives. In addition, Ivarans itself entered discussions with the government of Argentina, and requested that the Commission defer consideration of its Petition while it pursued such descussions.

The Commission has now been notified by the Departments of State and Transportation that they have received assurances from Argentine authorities that "they are not enforcing and do not intend to enforce" Resolution 619. Iverans has likewise informed the Commission that it has received assurances directly from Dr. Casado Bianco, Argentine Undersecretary for Maritime and River Transport, that neither Resolution 619 or other measures, including necessary clearances and export licenses, will be used to prevent it from loading cargo in Argentina.

Based on these assurances, Ivarans informs the Commission by an April 26, 1985 letter from its counsel that it "is satisfied that the primary purpose of its Section 19 petition in regard to the northbound trade has been achieved," and requests that the Commission terminate this proceeding. Because Ivarans will have continued access to the northbound trade from Argentina to the U.S., and no further regulatory purpose would therefore be achieved by continuing this proceeding.

Therefore, it is ordered, that this proceeding is discontinued.

By the Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-11826 Filed 5-15-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Banc One Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engate *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 5, 1985.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Banc One Corporation*, Columbus, Ohio; to expand the geographic scope of previously approved activities (leasing

and making and servicing of loans) through a *de novo* office of its subsidiary, Bank One Leasing Corporation. The new office will be located in Chicago, Illinois.

Board of Governors of the Federal Reserve System, May 10, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-11807 Filed 5-15-85; 8:45 am]

BILLING CODE 6210-01-M

First Bankshares of St. Martin, Ltd., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 7, 1985.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Bankshares of St. Martin, Ltd.*, St. Martinville, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank of St. Martin, St. Martinville, Louisiana.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *State Financial Service Corporation*, Hales Corners, Wisconsin; to acquire 100 percent of the voting shares of University National Bank, Milwaukee, Wisconsin.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Fourth Financial Corporation*, Wichita, Kansas; to acquire 100 percent of the following bank holding companies: M-L Bancshares, Inc., Wichita (The Kansas State Bank Newton); Pittsburg Bancshares, Inc., Pittsburg (The National Bank of Pittsburg, Pittsburg); Coffeyville Bancshares, Inc., Coffeyville (The First National Bank of Coffeyville, Coffeyville); Salina Bancshares, Inc., Salina (The Planters Bank and Trust Company, Salina); and Olathe Bancshares, Inc., Olathe (Patrons State Bank & Trust Co., Olathe) all located in the State of Kansas.

Board of Governors of the Federal Reserve System, May 10, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-11808 Filed 5-15-85; 8:45 am]

BILLING CODE 6210-01-M

Philadelphia National Bank; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"). The Edge Corporation would operate as a subsidiary of the applicant. The factors that are to be considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank listed for that notice. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing. Any person wishing to comment on the application should submit views in writing to be received not later than June 6, 1985.

A. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

Philadelphia National Bank, Philadelphia, Pennsylvania; to establish a corporation to be known as Philadelphia National Bank Overseas, Inc., Wilmington, Delaware. Philadelphia National Bank Overseas, Inc. would operate as a subsidiary of Philadelphia National Bank. This application may be inspected at the Federal Reserve Bank of Philadelphia.

Board of Governors of the Federal Reserve System, May 10, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-11809 Filed 5-15-85; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Office of Policy and Management Systems, GSA.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) requests the Office of Management and Budget (OMB) to reinstate two information collections which have expired.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to William W. Hiebert, GSA Clearance Officer, General Services Administration (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: See below.

SUPPLEMENTARY INFORMATION:

1. Purpose

a. *Household Goods Shipment Report.* This collection is used to monitor and control the performance of household goods carriers and by agencies to select carriers for future Government household shipments. Respondents and responses 5,000 each; hours 1,666. Contact John Millington, Office of Transportation (703-557-1256).

b. *Transportation Discrepancy Report.* This collection provides data on loss, damage, or other discrepancies occurring during transportation of Government freight and is used in support of claims filed against commercial transportation companies. Respondents, responses and hours 10,800 each. Contact: Raymond Price, Office of Transportation (703-557-1256).

c. *Copies of proposals.* Copies of these proposals may be obtained from the Directives and Reports Management Branch (ATRAI), Room 3007, GS Building, Washington, DC, 20405 (202-566-0666).

Dated: May 9, 1985.

Johnny T. Young,

Acting Director, Information Management Division.

[FR Doc. 85-11820 Filed 5-15-85; 8:45 am]

BILLING CODE 6820-24-M

Report on Revised System of Records Under the Privacy Act of 1974

AGENCY: General Services Administration.

ACTION: Notification of revised system of records.

SUMMARY: The purpose of this document is to give notice, under the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of intent to revise a system of records that will be maintained by GSA. The system of records, Travel Charge Card Program, GSA/GOVT-3, is revised to include travelers who do not have an individual charge card but use a "Government Travel System account number" to pay for their transportation expenses. No additional information or routine uses are created. As no new information is being collected by GSA, the proposed amendment is not considered as being within the purview of the provisions of 5 U.S.C. 552(o) which would require submission of an altered report to Congress and the Office of Management and Budget.

DATE: Any interested party may submit written comments about this revised system. Comments must be received on or before the 30th day following publication of this notice. The system will become effective without further notice on the 30th day following publication of this notice unless comments are received that would result in a contrary decision.

ADDRESS: Address comments to General Services Administration (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. William Hiebert, GSA Privacy Act Officer, telephone (202) 535-7647.

Background

The purpose of this system is to assemble in one system information to provide Government agencies with (1) necessary information on the commercial travel and transportation payment and expense control system which provides travelers charge cards and the agency an account number for official travel and related travel expenses on a worldwide basis, (2) attendant operational and control support, and (3) management information reports for expense control purposes.

The revised system of records is as follows:

GSA/GOVT-3

SYSTEM NAME:

Travel Charge Card Program.

SYSTEM LOCATION:

This system of records is located in the finance office of the local installation of the Department or Agency which the individual travelled. Records necessary for the contractor to perform under the contract are located at the contractor's facility.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system are current Federal employees who have their own Government assigned charge card and all other Federal employees and authorized individuals using the GTS account number who are all on travel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include name, address, social security number, employment information, telephone numbers, information needed for identification verification, travel authorizations and vouchers, charge card applications, charge card receipts, terms and conditions for use of charge cards, and monthly reports from contractor(s) showing charges to individual account numbers, balances, and other types of account analyses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5707 and implementing Federal Travel Regulations, FPMR 101-7.

PURPOSE(S): To assemble in one system information to provide Government agencies with (1) necessary information on the commercial travel and transportation payment and expense control system which provides travelers charge cards and the agency an account number for official travel and related travel expenses on a worldwide basis, (2) attendant operational and control support, and (3) management information reports for expense control purposes.

THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

a. To disclose information to a Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or carrying out a statute, rule, regulation, or order, where the General Services Administration becomes aware of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to a Member of Congress or a congressional staff member in response to an inquiry from that congressional office made in behalf of a constituent.

c. To disclose information to the contractor in providing necessary information for issuing credit cards.

d. To disclose information to a requesting Federal agency in connection with hiring or retaining an employee; issuing a security clearance; reporting an employee investigation; clarifying a job; letting a contract; or issuing a license, grant, or other benefit by the requesting agency where the information is relevant and necessary for a decision.

e. To disclose information to an appeal, grievance, or formal complaints examiner; equal employment opportunity investigator; arbitrator; exclusive representative; or other official engaged in investigating, or settling a grievance, complaint, or appeal filed by an employee.

f. To disclose information to officials of labor organizations recognized under Pub. L. 95-454, when necessary to their duties of exclusive representation on personnel policies, practices, and matters affecting working conditions.

g. To disclose information to a Federal agency for accummulating reporting data and monitoring the system.

h. To disclose information in the form of listings, reports, and records of all common carrier transactions including refunds and adjustments to GSA by the contractor to enable audits of carrier charges to the Government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders. Computer records within a computer and attached equipment.

RETRIEVABILITY:

Filed by name, Social Security Number, and/or credit card number.

SAFEGUARDS:

Paper records stored in lockable file cabinets or secured rooms. Computerized records protected by use of access codes and entry logs. There is restricted access to credit card account numbers.

RETENTION AND DISPOSAL:

Records are kept for 3 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Transportation Office of Federal Supply and Services, General Services Administration (FT), Crystall Mall Building 4, 1941 Jefferson Davis Highway, Arlington, VA 22202.

NOTIFICATION PROCEDURES:

Inquiries by individuals should be addressed to the agency Finance Officer for which they travelled.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the agency Finance Officer for which they travelled. Individuals must furnish their full name and the authorizing department or agency and component of their records to be located and identified.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the agency Finance Officer for which they travelled. Individuals must furnish their full name and the authorizing agency and component for which the individual travelled.

RECORD SOURCE CATEGORIES:

Charge card applications, monthly reports from the contractor, travel authorizations and vouchers, and data interchanged between agencies.

Dated: May 8, 1985.

Johnny T. Young,

Acting Director, Information Management Division.

[FR Doc. 85-11863 Filed 5-15-85; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

NIOSH Board of Scientific Counselors; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control (CDC) announces the following National Institute for Occupational Safety and Health (NIOSH) committee meeting:

Name: Board of Scientific Counselors.

Date: June 4-5, 1985.

Place: Auditorium B, Centers for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia 30333.

Time and Type of Meetings: Closed 9:00 a.m. to 5:00 p.m., June 4, 1985. Open 9:00 a.m. to 3:00 p.m., June 5, 1985.

Contact Person: Elliott S. Harris, Ph.D., Executive Secretary, NIOSH Board of Scientific Counselors, NIOSH, CDC, Building 1, Room 3007, 1600 Clifton Road, N.E., Atlanta, Georgia 30333, Phone: Commerical—404/329-3773, FTS—236-3773.

Purpose: The Board is charged with advising the Director of the National Institute for Occupational Safety and Health on the scientific quality and efficacy of the Institute's research as related to the Institute's goals.

Agenda: Agenda items for the meeting will include announcements, consideration of minutes of the previous meeting, and future meeting dates. Beginning at 9 a.m. through 5 p.m., June 4, the site visit teams will discuss their review and evaluation of NIOSH intramural programs and projects conducted by NIOSH. This portion of the meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination of the Director, Centers for Disease Control, pursuant to Pub. L. 92-463.

The portion of the meeting so indicated is open to the public for observation and participation. Anyone wishing to make an oral presentation should notify the contact person listed above as soon as possible before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the presentation. Oral presenttations will be scheduled at the discretion of the Chair and as time permits. Anyone wishing to have a question answered during the meeting by a scheduled speaker should submit the question in writing, along with his or her name and affiliation through the Executive Secretary to the Chair. At the discretion of the Chair, and as time permits, appropriate questions will be asked of the speakers.

Agenda items are subject to change as priorities dictate.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: May 8, 1985.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 85-11787 Filed 5-15-85; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 85F-0092]

Squirt & Co.; Filing of Food Additive Petition

Correction

In FR Doc. 85-7765, appearing on page 13084, in the issue of Tuesday, April 2, 1985, make the following correction:

In the second column, the tenth line should read:

(1-methyl *N*-l-α-aspartyl-l-

BILLING CODE 1505-01-M

Health Resources and Services Administration

Public Health Service; Fiscal Year 1985 Funding Preference for Grants for Geriatric Education Centers

The Bureau of Health Professions, Health Resources and Services Administration, announces the final funding preference which will govern the distribution of grant awards for Grants for Geriatric Education Centers authorized by section 788(b) of the PHS Act, as amended.

A proposed funding preference was published for public comment in the **Federal Register** of March 8, 1985 (50 FR 9522) and three comments were received. Each commenter endorsed the multidisciplinary approach of the Geriatric Education Center programs, and two recommended changes for consideration.

One respondent recommended deletion of the language requiring that one of four health professions receiving faculty or student training through the proposed project be allopathic or osteopathic medicine. The Department does not intend in the funding preference to give undue emphasis to any one profession but believes that expressed congressional interest in geriatric medical education and the need for faculty with geriatric skills and knowledge can be addressed most effectively by multidisciplinary efforts that include allopathic or osteopathic medicine.

The second respondent questioned whether the Geriatric Education Center model addresses adequately the need for geriatric training in podiatry. It was noted that the inclusion of podiatry is at the discretion of the applicant, and the geographic distribution of colleges of podiatric medicine limits their participation because of the regional focus of Geriatric Education Centers. A specific funding allocation for podiatric faculty development was recommended along with a direct requirement for inclusion of podiatric medicine in the development of Geriatric Education Centers.

The Department believes funds available for Geriatric Education Centers in Fiscal Year 1985 should be used to develop multidisciplinary centers, each with the potential to further geriatric education in a number of different health professions. Applications are invited from all types of health professions schools, including colleges of podiatric medicine. However, requiring participation of podiatric

medicine in every Geriatric Education Center does not appear to be workable.

Final Funding Preference

In determining the order of funding of competing applications which have been recommended for approval, preference will be given to applications which satisfactorily address all three of the program priorities listed below. All applications, however, will be reviewed and given consideration for funding.

(1) Projects which will train faculty or students from four health professions, one of which is allopathic or osteopathic medicine. The additional three or more professions proposed shall be designated from among the following:

a. Allied health professions which provide direct patient care services;

b. Dentistry;

c. Nursing;

d. Optometry;

e. Pharmacy;

f. Podiatry;

g. Appropriate public or community health specialities.

(2) Projects which currently have or plan to provide for a high degree of areawide collaboration as evidenced by:

a. Significant multidisciplinary health care educational activities;

b. Letters of agreement or assurance, among participating entities, such as professional schools, teaching facilities and other clinical sites, professional associations, and State and local health agencies; and

c. Organizational or other arrangements for participation by the social and behavioral science disciplines.

(3) Projects which during the first year will initiate a training program for health professions schools and programs outside the applicant organization. This program must provide during the first year a minimum of at least 20 weeks of training among at least six faculty. The applicant must demonstrate the availability of resources to initiate such training.

Dated: May 13, 1985.

Robert Graham, M.D.

Administrator, Assistant Surgeon General.

[FR Doc. 85-11851 Filed 5-15-85; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Public Information Plan on Lead Poisoning in Waterfowl

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: In recent months, States, conservation organizations, ammunition companies, sportsmen, and others ahve been consulted to determine what actions should be taken to resolve the lead poisoning/nontoxic shot issue. One recommendation resulting from this consultative process was that the Department of the Interior develop and implement an objective public information plan. Such a plan has now been prepared and is titled the "Lead Poisoning Public Information Plan." The major goals of this plan are:

1. To reach waterfowl hunters in all four Flyways with information on lead poisoning, including the scientific basis for Federal and State decisions to require use of nontoxic shot in designated areas;

2. To accomplish these information objectives in cooperation with the States, private sportsmen's and conservation organizations, ammunition manufacturers and associated businesses, and other interested parties.

The purpose of this notice is to announce the availability of the "Lead Poisoning Public Information Plan."

DATE: Copies of the plan may be requested at any time.

FOR FURTHER INFORMATION CONTACT: Phil Million, Assistant Director—Public Affairs, Department of the Interior, Fish and Wildlife Service, 18th & C Streets, NW., Room 3240, Washington, D.C. 20240. Phone: 202/343-5634.

Dated: April 19, 1985.

Robert A. Jantzen,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 85-11829 Filed 5-15-85; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[F-14838-A]

Alaska Native Claims Selection; Bethel Native Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613, will be issued to Bethel Native Corporation for approximately 70 acres. The lands involved are within U.S. Survey No. 4000, Alaska.

A notice of the decision will be published once a week for four (4) consecutive weeks, in THE TUNDRA DRUMS. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until June 17, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-11854 Filed 5-15-85; 8:45 am]

BILLING CODE 4310-84-M

[AA-55021]

Alaska Native Claims Selection; Cook Inlet Region, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of secs. 14(e) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(e), and sec. 12(b)(6) of the Act of January 2, 1976, 43 U.S.C. 1611, will be issued to Cook Inlet Region, Inc., for approximately 9.47 acres. The lands involved are in:

U.S. Survey No. 7410, Alaska, lot 4, situated on the right bank of the Naknek River approximately 5 miles southeasterly from the village of King Salmon, Alaska.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Anchorage Times. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until June 17, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the

requirements of 43 CFR Part 4, Subpart E (1983) (as amended, 49 FR 6371, February 21, 1984) shall be deemed to have waived their rights.

Olivia Short,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-11853 Filed 5-15-85; 8:45 am]

BILLING CODE 4310-JA-M

[C-41127; 4310-JB 5-00258-GP5]

Colorado; Invitation for Coal Exploration License Application; Western Fuels-Utah, Inc.

Pursuant to the Mineral Leasing Act of February 25, 1920, as amended, and to Title 43, Code of Federal Regulations, Subpart 3410, members of the public are hereby invited to participate with Western Fuels-Utah, Inc., in a program for the exploration of unleased coal deposits owned by the United States of America in the following described lands located in Rio Blanco County, Colorado:

Township 2 North, Range 100 West, 6th P.M.

Sec. 6, lots 8 to 14, 17 to 19, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼, SW¼SE¼.

Township 2 North, Range 101 West, 6th P.M.

Sec. 1, lots 1, 2, 5 to 7, S½NE¼, N½SE¼.

Township 3 North, Range 100 West, 6th P.M.

Sec. 31, lots 5 to 8, E½, E½W½.

Township 3 North, Range 101 West, 6th P.M.

Sec. 36, N½, N½S½, S½SE¼.

The application for coal exploration license is available for public inspection during normal business hours under serial number C-41127 at the BLM Colorado State Office, Public Room, 1037 20th Street, Denver, Colorado and at the BLM Craig District Office, 455 Emerson Street, Craig, Colorado.

Any party electing to participate in this program must share all costs on a pro rata basis with the applicant and with any other party or parties who elect to participate. Written Notice of Intent to Participate should be addressed to the following and must be received by them within thirty (30) days after the publication of this Notice of Invitation in the **Federal Register:**

Chief, Mineral Leasing Section,
Colorado State Office, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202, and

Mr. Don L. Deardorff, Manager,
Engineering and Exploration, Western Fuels-Utah, Inc., 405 Urban St., Ste. 305, Lakewood, Colorado 80228

Evelyn W. Axelson,

Chief, Mineral Leasing Section.

[FR Doc. 85-11821 Filed 5-15-85; 8:45 am]

BILLING CODE 4310-JB-M

[5-00251]

Salt Lake District; Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92-463 that the Salt Lake District Grazing Advisory Board will be meeting and touring public lands on June 4 and 5, 1985.

The Board will meet at 8:00 a.m. at the Salt Lake District, Bureau of Land Management Office, at 2370 South 2300 West, Salt Lake City, Utah. The board will then depart for a tour of public lands in Tooele County. The night of June 4, 1985, a business meeting will be held at 7:30 p.m. at Vernon BLM field camp.

The purpose of the tour and meeting will be to: (1) Review implementation efforts of the Tooele Grazing E.I.S.; (2) review range improvements projects; and (3) review status of the Box Elder RMP/EIS.

The meeting is open to the public and interested persons may make oral statements at the business meeting at Vernon between 7:00 and 7:30 p.m., or file a written statement for the Board's consideration.

Persons wishing to make statements to the Board are requested to contact Glade Anderson at 524-5348 prior to May 30, so that adequate time can be included on the agenda.

FOR FURTHER INFORMATION CONTACT: Glade Anderson, Supervisory Range Conservationist, Bureau of Land Management, Salt Lake District Office, 2370 South 300 West, Salt Lake City, Utah 84119, (801) 524-5348.

Frank W. Snell,

Salt Lake District Manager.

[FR Doc. 85-11822 Filed 5-15-85; 8:45 am]

BILLING CODE 4310-DQ-M

Field Tour, Vale District Advisory Council and Grazing Advisory Board

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice.

SUMMARY: Notice is given in accordance with Pub. L. 92-463 that the Vale District Advisory Council and Grazing Advisory Board will conduct a field tour on June 11 and 12, 1985. The Advisory Council and Grazing Advisory Board will examine riparian management areas and wilderness study areas in the district's Northern and Southern Resource Areas.

ADDRESS: The field tour will begin at 9:00 a.m. from the Vale District Office, 100 Oregon Street, Vale, OR 97918. Interested persons are invited to attend but must provide their own transportation.

FOR FURTHER INFORMATION CONTACT: Barry Rose, Vale District Office, 503-473-3144.

George D. House,

Acting Vale District Manager.

[FR Doc. 85-11802 Filed 5-15-85; 8:45 am]

BILLING CODE 4310-33-M

(NM-52382)

Proposed Continuation of Withdrawal, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior proposes that a 7,243.85-acre withdrawal for the Bureau of Reclamation continue for an additional 50 years. The lands will remain closed to surface entry and mining and will remain open to mineral leasing.

DATE: Comments should be received by August 14, 1985.

FOR FURTHER INFORMATION CONTACT: Pauline T. Brown, BLM, New Mexico State Office, P.O. Box 1449, Santa Fe, NM 87504-1449, 505-988-6326.

The Department of the Interior proposes that the existing land withdrawal made by Secretary's Order of July 17, 1908, be continued for a period of 50 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The land is described as follows:

New Mexico Principal Meridian

T. 8 S., R. 2 W.,
Sec. 20, lot 1, SE¼NE¼, NE¼SE¼.
T. 9 S., R. 3 W.,
Sec. 1, lots 1, 2 SW¼NE¼, NE¼SW¼, SW¼SW¼;
Sec. 11, SW¼NE¼,NE¼SE¼;
Sec. 12, NW¼NW¼
Sec. 14, SW¼SE¼
Sec. 23, SW¼SW¼
Sec. 26, NW¼NW¼
Sec. 27, SE¼NE¼, W½SE¼

Sec. 33, S½NE¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 34, W½NE¼, NW¼.
T. 10 S., R. 3 W.,
Sec. 4, lots, 3, 4,, SW¼NW¼;
Sec. 5, SE¼NE¼, NE¼SE¼;
Sec. 8, SE¼NE¼, E½SE¼;
Sec. 17, NE¼, S½SW¼, NW¼SE¼;
Sec. 19, SE¼NE¼, E½SE¼;
Sec. 20, NW¼NW¼, NW¼SW¼;
Sec. 22, lots 2, 3;
Sec. 28, S½SW¼;
Sec. 29, NW¼SW¼;
Sec. 30, E½E½, SW¼SE¼;
Sec. 31, NE¼;
Sec. 32, SW¼NW¼, E½SW¼;
Sec. 33, NW¼, N½SW¼, SW¼,SW¼.
T. 11 S., R. 3 W.,
Sec. 4, lot 4, SW¼NW¼, W½SW¼;
Sec. 5, lot 4, SE¼NW¼, NE¼SW¼;
Sec. 7, E½W½, SE¼SE¼;
Sec. 8, SE¼NE¼, W½SE¼;
Sec. 9, W½NW¼;
Sec. 17, W½E½;
Sec. 18, lot 3, NE¼NE¼, W½NE¼, E½NW¼, NE¼SW¼;
Sec. 20, W½NE¼, SE¼NW¼, NE¼SW¼;
Sec. 21, SW¼;
Sec. 28, NE¼NW¼, E½SW¼;
Sec. 30, SE¼SE¼;
Sec. 31, lot 1;
Sec. 33, NE¼NE¼, S½NE¼;
Sec. 34, lots 1 thru 4.
T. 12. S., R. 3 W.,
Sec. 3, lots 1,2,3;
Sec. 6, lots 6,7, E½SW¼, W½SE¼;
Sec. 7, lots 1 thru 4, E½W½, W½E½, NE¼SE¼;
Sec. 10, lots 3,4;
Sec. 15, lot 1;
Sec. 18, lots 3,4,5, NW¼NE¼, NE¼NW¼.
T. 11 S., R. 4 W.,
Sec. 13, SW¼SW¼;
Sec. 24, E½SW¼;
Sec. 25, W½E½, E½W½, SE¼SE¼;
Sec. 35, E½SW¼;
Sec. 36, NE¼NE¼, W½NE¼, E½NW¼, SW¼.
T. 12 S., R. 4 W.,
Sec. 1, lots 2,3,4, S½N½, SE¼;
Sec. 2, lot 1;
Sec. 12, NE¼NE¼.

The area described aggregates 7,243.85 acres.

The purpose of the withdrawal is for use in connection with the Rio Grande Project, Elephant Butte Dam and Reservoir. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the New Mexico State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: May 6, 1985.

Charles W. Luscher,

State Director.

[FR Doc. 85-11795 Filed 5-15-85; 8:45 am]

BILLING CODE 4310-FB-M

[5-00262-GP5-073]

Alaska Native Claims Selection; Sealaska Corp.

In accordance with Departmental regulation 32 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of section 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(h)(1), will be issued to Sealaska Corporation. The lands involved are within the Tongass National Forest.

Serial No.	Land description	Approximate acreage
AA-10440	T. 79 S., R. 96 E., CRM, a portion of Sec.19.	12.75
AA-10441	T. 79 S., R. 94E., CRM, a portion of sec. 17.	22.5
AA-10443	T. 82 S., R. 98 E., CRM, a portion of sec. 11.	11.4
AA-10457	T. 77 s., R. 83 E., CRM, a portion of sec. 19.	0.31
AA-10502	T. 49 S., R. 58 E., CRM, a portion of sec. 22.	3.5
AA-10523	T. 42 S., R. 63 E., CRM, a portion of sec. 20.	4.0

A notice of the decisions will be published once a week, for four (4) consecutive weeks, in the *Juneau Empire*. Copies of the decisions may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960.)

Any party claiming a property interest which is adversely affected by the decisions shall have until June 17, 1985, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E (1983) (as amended, 49 FR 6371, February 21, 1984) shall be deemed to have waived their rights.

Ruth Stockie,

Secton Chief, Branch of ANCSA Adjudicotion.

[FR Doc. 85-11855 Filed 5-15-85; 8:45 am]

BILLING CODE 4310-10-JA-M

[F-14695-A; 5-000262-GP5-025]

Alaska Native Claims Selection; NIMA Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Nima Corporation for approximately 1.57 acres. The lands involved are in the vicinity of Mekoryuk, within U.S. Survey No. 4051.

A notice of the decision will be published once a week for four (4) consecutive weeks, in THE TUNDRA DRUMS. Copies of decision may be obtained by contracting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until June 17, 1985, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E (1983) (as amended, 49, FR. 6371, February 21, 1984) shall be deemed to have waived their rights.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-11856 Filed 5-15-85; 8:45 am]

BILLING CODE 4310-JA-M

[5-00252-GP5-100]

Albuquerque District, NM; Intent To Prepare Resource Management Plan and Invitation To Participate in Identification of Issues and Planning Criteria

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare resource management plan.

SUMMARY: The Bureau of Land Management, Farmington Resource Area, New Mexico, is initiating the preparation of a Resource Management Plan (RMP) which will include an Environmental Impact Statement (EIS). The plan will guide and control future management actions on approximately 3.0 million acres of public land and mineral resources by the BLM's Farmington Resource Area. The code of Federal Regulations, Title 43, Subpart 1600, will be followed for this planning effort. The public is invited to participate in the planning process, beginning with the identification of issues and planning criteria in June of 1985.

DATE: Comments relating to the identification of issues and planning criteria will be accepted until July 29, 1985.

ADDRESS: Send comments to: BLM, Farmington Resource Area, RMP Team Caller Service 4104, Farmignton, NM 87499.

FOR FURTHER INFORMATION CONTACT: Mat Millenbach, Area Manager, or Doug Burger, RMP Team Leader, Farmington Resource Area, (505) 325-3581.

SUPPLEMENTARY INFORMATION: The planning area will include the public land and federal mineral ownership in all or parts of Rio Arriba, San Juan, Mckinley and Sandoval Counties. This encompasses approximately 1.5 million acres of BLM-administered surface and 3.0 million acres of Federal minerals under Federal, state, or private surface in the four-county area. Anticipated issues to be addressed during development of the RMP include, but are not limited to, the following: (1) Which lands in the Farmington Resource Area could be transferred to other than BLM administration or may require further study and which lands would be beneficial to BLM programs if acquired; (2) what are the correct levels of vegetative use for livestock, wildlife, and watershed protection; (3) what public land, if any, should be designated as open, restricted, or closed to motorized vehicle access; (4) what additional lands should be further considered for competitive coal leasing (a call for coal resource information will be published in an up-coming **Federal Register**; (5) what public lands require special management practices to ensure conservation of a specific resource; and (6) which areas should be either closed to fuelwood collection or intensively managed for the fuelwood resources. These preliminary issues are not final and may be further refined by direct input through active public participation. The RMP will be developed by an interdisciplinary team, using representation from the team leader, technical coordinators, range conservationists, realty specialists, a wildlife biologists, a geologist, and an outdoor recreation planner, with additional technical support to be provided by other specialists as needed.

A comprehensive public participation plan has been prepared. It is intended to involve interested or affected parties early and continuously throughout the planning process. An individual may protest approval of a Proposed Plan only with respect to those items submitted in writing to the District Manager during the planning process. The plan emphasizes localized one-to-one contacts, media coverage, direct mailings, and continual coordination with local, state, and other federal agencies. Meetings to determine the scope of the RMP and to obtain input on issues and planning criteria will be held in Farmington, Grants, Crownpoint, and Cuba, New Mexico at the following times and locations.

June 20, 1985, 7:00 p.m., Grants Holiday Inn
June 21, 1985, 10:00 a.m., Crownpoint, Navajo Skill Center
June 24, 1985, 7:00 p.m., Farmington Civic Center
June 25, 1985, 7:00 p.m., Cuba Municipal Complex

Complete records of all phases of the planning process will be available for public review at the Farmington Resource Area Office throughout development of the RMP. Draft and final documents will be published.

Dated: May 7, 1985.

Bill J. Warner,

Acting State Director.

[FR Doc. 85 11861 Filed 5-15-85; 8:45 am]

BILLING CODE 4310-FB-M

[C-6-85]

California; Filing of Plat of Survey

May 8, 1985.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

San Bernardino Meridian, San Diego County

T. 14 S., R. 1 E.

2. This supplemental plat of the W½ of sec. 27, T. 14 S., R. 1 E., San Bernardino Meridian, California, was accepted April 10, 1985.

3. This supplemental plat will immediately become the basic record for describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 85-11878 Filed 5-15-85; 8:45 am]

BILLING CODE 4310-40-M

[Group 775]

California; Filing of Plat of Survey

May 8, 1985.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, Amador County

T. 7 N., R. 14 E.

2. This plat, representing the dependent resurvey of portions of the east and west boundaries and a portion of the subdivisional lines, and the survey of the subdivision of sections 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, and 20, T. 7 N., R. 14 E., Mount Diablo Meridian, under Group No. 775, California, was accepted April 8, 1985.

3. This plat will immediately become the basic record for describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage

Way, Room–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 85–11879 Filed 5–15–85; 8:45 am]

BILLING CODE 4310–40–M

Montrose District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Montrose District Advisory Council Meeting.

SUMMARY: Notice is hereby given in accordance with section 309 of Public Law 94–579 and 43 CFR Part 1784, that a meeting of the Montrose District Advisory Council will be held in Gunnison, Colorado.

DATE: Thursday, June 20, 1985, 9:30 a.m. at the DOE uranium mill tailings site for a field tour and 1:00 p.m. at the Gunnison Resource Area Office conference room, 216 North Colorado, Gunnision, Colorado. Requests to persent oral comments must be received by June 17, 1985.

ADDRESS: Submit requests to comment or for further information to: District Manager, Montrose District Office, Bureau of Land Management, 2465 South Townsend, Montrose, Colorado 81401, (303) 249–7791.

SUPPLEMENTARY INFORMATION: All meetings of the Advisory Council are open to the public. Interested persons may file written statements prior to the meeting or make oral statements to the Council between 1:15 and 1:45 p.m. Members of the public wishing to participate in the tour must provide their own transportation.

The agenda will include:

1. Tour of uranium mill tailings site and alternate disposal sites.
2. Election of officers.
3. Discussion of uranium mill tailings remedial action plans and recommendations by the Council.
4. Presentation of the San Juan/San Miguel RMP decision summary.
5. Uncompahgre RMP update including issues and criteria.

Dated: May 10, 1985.

Paul W. Arrasmith,

District Manager.

[FR Doc. 85–11877 Filed 5–15–85; 8:45 am]

BILLING CODE 4310–JB–M

Oregon: Burns District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Burns District Office: Advisory county meeting.

SUMMARY: In accordance with Pub. L. 92–463 this notice sets forth the meeting schedule and two-day tour of the Burns District Advisory Council in Harney County, Oregon.

DATE: June 20 and 21, 1985.

FOR FURTHER INFORMATION CONTACT: Joshua L. Warburton, District Manager, Burns District, Bureau of Land Management, 74 South Alvord, Burns, Oregon 97720—Telephone (503) 573–5241.

SUPPLEMENTARY INFORMATION: This meeting will be in the form of a field orientation tour of proposed Wilderness Areas in the Three Rivers and Andrews Resource Areas.

The two-day tour will begin at the Burns District Office, located at the above address, at 8:00 A.M. on Thursday, June 20, 1985.

An informal meeting will be held that same evening, at the BLM Field Camp in Fields, Oregon to discuss the USFS/BLM Interchange Proposal, Grazing Fee & Sub-leasing Issue and Oregon's Wilderness Program.

The tour and meeting are open to the public, however, transportation for the public will not be provided. Anyone wishing to attend and/or make written or oral statements to the board is requested to contact the District Manager at the above address prior to June 14, 1985. Written statements must also be received by this date.

Summary minutes of the meeting will be available for public inspection and duplication within 30 days following the meeting.

Dated: May 6, 1985.

Joshua L. Warburton,

District Manager.

[FR Doc. 85–11880 Filed 5–15–85; 8:45 am]

BILLING CODE 4310–33–M

[A–18416–C; 5–00261]

Navajo Relocation Exchange, Maricopa County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action Designating Public Lands for Transfer out of Federal Ownership in Exchange for Private Lands Selected by the Navajo Tribe for Relocation Purposes.

SUMMARY: Under the provision of Sections 4 and 28 of the Navajo and Hopi Indian Relocation Amendment Act, 1980, 25 U.S.C., 640d–10 and 25 U.S.C. 640d–28, the Navajo Tribe filed a selection application on June 30, 1983, for private lands in Apache County, Arizona, to be obtained by exchange for public lands. Interest has been expressed by the private landowners to select the following public lands for part of the compensation for the lands selected by the Navajo Tribe:

Gila and Salt River Meridian Arizona

Maricopa County

Township 4 N., Range 1 E.,
Sec. 3: lots 1–4, Incl., lots 11–20, Incl., S½NE¼, NE¼SE¼—440.484 acres.
Township 5N., Range 1 E.,
Sec. 33: N½NE¼—80.000 acres.
Sec. 34: NE¼NE¼NE¼NE¼, E½NW¼NE¼NE¼NE¼, SW¼NW¼NE¼NE¼NE¼, SE¼NE¼NW¼NE¼NE¼, W½NE¼NW¼NE¼NE¼, NW¼NW¼NE¼NE¼, S½N½NE¼NE¼, S½NE¼NE¼, W½ NE¼, SE¼NE¼, W½, W½ E¼, W½E½SE¼, NE¼NE¼SE¼, N½NE¼SE¼NE¼SE¼, SW¼NE¼SE¼NE¼SE¼, W½SE¼NE¼SE¼, W½SE¼SE¼NE¼SE¼, W½NE¼NE¼SE¼SE¼, NW¼NE¼SE¼SE¼, S½NE¼SE¼SE¼, SE¼SE¼SE¼—635.625 acres.

Comprising 1156.109 acres, more or less in Maricopa County.

In accordance with the regulations in 43 CFR 2201.1(b), publication of this Notice will segregate the public lands, as described in this Notice, to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, but not the mineral leasing law or Geothermal Steam Act.

The Segregation of the above-described lands shall terminate upon issuance of a document of conveyance to such lands to the private landowners or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

Inquiries, comments and protests to the Notice should be addressed to either the Chief, Branch of Lands and Recreation, Bureau of Land Management, Arizona State Office, 3707 North 7th Street, Post Office Box 16563, Phoenix, Arizona 85011 or the District Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Dated: May 10, 1985.

Barry D. Stallings,

Acting District Manager.

[FR Doc. 85–11968 Filed 5–15–85; 8:45 am]

BILLING CODE 4310–32–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-254)]

Burlington Northern Railroad Co., Abandonment—In Kandiyohi County, MN; Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its 17.44-mile rail line between Hawick (milepost 35.66) and Willmar (milepost 53.10) in Kandiyohi County, MN. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

James H. Byne,

Secretary.

[FR Doc. 85–11814 Filed 5–15–85; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30618]

New England Southern Railroad Co., Inc.—Lease and Operation Exemption—Boston and Maine Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 11343(a)(2), the lease and operation by New England Southern Railroad Co., Inc., of certain trackage of Boston and Maine Corporation (B&M), referred to as the "New Hampshire Lines", including (1) the portion of the main line between milepost B56.00, near Manchester, NH, and milepost B80.68, near Penacook, NH; (2) a portion of the Concord-Lincoln line beginning at the switch with the New Hampshire main line in Concord at milepost B73.72 and extending to milepost 1.17; (3) a 0.49-mile segment of the former Claremont and Concord Railroad line from the switch in Concord at valuation station 1839+42.15 to valuation station 41+98; and (4) one track in the B&M yard at Manchester for interchange purposes. The total mileage will be approximately 27 miles.

DATES: This exemption will be effective on June 17, 1985. Petitions to stay must be filed by May 20, 1985, and petitions for reconsideration must be filed by June 5, 1985.

ADDRESSES: Send pleadings referring to Finance Docket No. 30618 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioners' representatives:

James E. Howard, One Boston Place, Suite 3210, Boston, MA 02108

Keith G. O'Brien, 1729 H Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commissions decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: April 26, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley, and Strenio. Commissioner Lamboley concurred with a separate expression. Commissioner Simmons did not participate.

James H. Bayne,

Secretary.

[FR Doc. 85–11813 Filed 5–15–85; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB-10 (Sub-30X)]

Wabash Railroad Co. and Norfolk and Western Railway Co.; Abandonment and Discontinuance of Service Exemption—In La Salle, Livingston, and Kankakee Counties, IL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts Wabash Railroad Company (Wabash) and Norfolk and Western Railway Company (N&W) from 49 U.S.C. 10903, *et seq.*, in connection with the abandonment by Wabash of a 2.72-mile line of railroad between Clay and Streator, IL, and the discontinuance by N&W of trackage rights over the Wabash line and over 31.9 miles of the line of Consolidated Rail Corporation between Streator and Reddick, IL, subject to standard employee protective conditions.

DATES: This exemption will be effective on June 17, 1985. Petitions to stay must be filed by May 20, 1985, and petitions for reconsideration must be filed by June 5, 1985.

ADDRESSES: Send pleadings referring to Docket No. AB–10 (Sub-No. 30X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners' Representative: Angelica D. Lloyd, 204 S. Jefferson Street, Roanoke, VA 24042.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Rom 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll-free (800) 424–5403.

Decided: May 8, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley, and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 85–11815 Filed 5–15–85; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Registration; Dupont Pharamaceuticals

By Notice dated January 22, 1985, and published in the **Federal Register** on January 30, 1985 (50 FR 4282), Dupont Pharmaceuticals, 1000 Stewart Avenue, Garden City, New York 11530, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Oxycodone (9143)	II
Hydrocodone (9193)	II
Oxymorphone (9652)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant

Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: May 1, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85-11860 Filed 5-15-85; 8:45 am]

BILLNG CODE 4410-09-M

Importation of Controlled Substances; Application; MD Pharmaceutical, Inc.

Pursuant to section 1008 of the Controlled Substance Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II, and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on December 14, 1984, MD Pharmaceutical Inc., 3501 West Garry Avenue, Santa Ana, California 92704, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methylphenidate (1724)	II
Diphenoxylate (9170)	II

As to the basic classes of controlled substances listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1112), and must filed no later than June 17, 1985.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: May 9, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85-11859 Filed 5-15-85; 8:45 am]

BILLING CODE 4410-09-M

Bureau of Prisons

Modification to List of Bureau of Prisons Institutions

AGENCY: Department of Justice, Bureau of Prisons.

ACTION: Notice.

SUMMARY: Attorney General Order No. 646-76 (41 FR 14805), as amended, classifies and lists the various Bureau of Prisons institutions. Attorney General Order No. 960-81, Reorganization Regulations, published int he **Federal Register** October 27, 1981 (at 46 FR 52339 et seq.) delegated to the Director, Bureau of Prisons, in 28 CFR 0.96(r), the authority to establish and designate Bureau of Prison institutions. In this present document, the Bureau is publishing a consolidated listing of its institutions and is designating a new Federal Correctional Institution at Phoenix, Arizona. The institution is scheduled for formal dedication during May 1985.

FOR FURTHER INFORMATION CONTACT: Milk Pearlman, Office of General Counsel, Bureau of Prisons, 320 First Street NW., Washington, D.C. 20534 (202-272-6874).

SUPPLEMENTARY INFORMATION: This notice is not a rule within the meaning of the Administrative Procedure Act, 5 U.S.C. 551(4), the Regulatory Flexiblity Act, 5 U.S.C. 601(2), or Executive Order No. 12291, section 1(a).

By virtue of the authority vested in the Attorney General in 18 U.S.C. 4001, 4003, 4042, 4081, and 4082 and delegated to the Director, Bureau of Prisons by 28 CFR 0.96(r), it is hereby ordered as follows:

The following institutions are established and designated as places of confinement for the detention of persons held under authority of any Act of Congress, and for persons charged with or convicted of offenses against the United States or otherwise placed in the custody of the Attorney General of the United States.

A. The Bureau of Prisons institutions at the following locations are designated as U.S. Penitentiaries:

(1) Atlanta, Georgia;
(2) Leavenworth, Kansas;
(3) Lewisburg, Pennsylvania;
(4) Lompoc, California;
(5) Marion, Illinois; and
(6) Terre Haute, Indiana.

B. Bureau of Prisons institutions at the following locations are designated as Federal Correctional Institutions:

(1) Alderson, West Virginia;
(2) Asland, Kentucky;
(3) Bastrop, Texas;
(4) Butner, North Carolina;
(5) Danbury, Connecticut;
(6) El Reno, Oklahoma;
(7) Englewood, Colorado;
(8) Fort Worth, Texas;
(9) La Tuna, Texas;
(10) Lexington, Kentucky;
(11) Loretto, Pennsylvania;
(12) Memphis, Tennessee;
(13) Milan, Michigan;
(14) Morgantown, West Virginia;
(15) Otisville, New York;
(16) Oxford, Wisconsin;
(17) Petersburg, Virginia;
(18) Phoenix, Arizona;
(19) Pleasanton, California;
(20) Ray Brook, New York;
(21) Safford, Arizona;
(22) Sandstone, Minnesota;
(23) Seagoville, Texas;
(24) Talladega, Alabama;
(25) Tallahassee, Florida;
(26) Terminal Island, California; and
(27) Texarkana, Texas.

C. The Bureau of Prisons institutions at the following locations are designated as Federal Prison Camps:

(1) Allenwood, Pennsylvania;
(2) Big Spring, Texas;
(3) Boron, California;
(4) Duluth, Minnesota;
(5) Eglin Air Force Base, Florida; and
(6) Maxwell Air Force Base/Gunter Air Force Station, Montgomery, Alabama.

D. The Bureau of Prisons institutions at the following locations are designated as Metropolitan Correctional Centers:

(1) Chicago, Illinois;
(2) Miami, Florida;
(3) New York, New York;
(4) San Diego, California; and
(5) Tucson, Arizona.

E. The Bureau of Prisons institution at Springfield, Missouri is designated as the U.S. Medical Center for Federal Prisoners.

F. The Bureau of Prisons institution at Rochester, Minnesota is designated as the Federal Medical Center.

Dated: May 13, 1985.

C.A. Turner,

Acting Director, Bureau of Prisons.

[FR Doc. 85-11898 Filed 5-15-85; 8:45 am]

BILLING CODE 4410-05-M

LEGAL SERVICES CORPORATION

Announcement of Transfer of Funds for the Provision of Legal Services in the State of Ohio

AGENCY: Legal Services Corporation.

ACTION: Notice.

SUMMARY: The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Statute 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project the Corporation shall announce publicly . . . such grant, contrct or project . . ."

The Legal Services Corporation (LSC) hereby publicly announces the transfer of responsibility of the LSC grant for legal services to eligible clients residing in the Ohio counties of Ashland, Crawford, Cuyahoga, Geauga, Labe, and Richland from the Council for Economic Opportunity in Greater Cleveland to the Legal Aid Society of Cleveland. Both programs are located in the city of Cleveland, Ohio.

DATE: All comments related to this action must be received by the Office of Field Services on or before June 17, 1985.

FOR FURTHER INFORMATION CONTACT: Gail D. Francis, Manager, Grants and Budget Unit, Office of Field Services, Legal Services Corporation 733, Fifteenth Street NW., Washington, D.C. 20005, (202) 272-4080.

SUPPLEMENTARY INFORMATION: Since the inception of the LSC grant in 1975, the Council for Economic Opportunity in Greater Cleveland has subcontracted the provision of legal services work to the Legal Aid Society of Cleveland. All parties mutually agree that beginning in grant year 1985 the LSC grant will be made directly to the Legal Aid Socity of Cleveland. The annualized level of Legal Services Corporation's funding for this service area is $1, 686,989 for calendar year 1985.

All groups and persons interested in submitting comments related to this transfer should submit such to the Legal Services Corporation, Grants Assistant, Grants and Budget Unit, Ofice of Field Services, 733 Fifteenth Street NW., Washington, D.C. 20005, within thirty (30) calendar days of publication of this notice.

Dated: May 10, 1985.

Peter Broccoletti,

Acting Director, Office of Field Services.

[FR Doc. 85-11850 Filed 5-15-85; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[85-29]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Form Under OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters, and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by May 28, 1985. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: Carl F. Steinmetz, NASA Agency Clearance Officer, Code NIM, NASA Headquarters, Washington, DC 20546; Kenneth Allen, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Carl F. Steinmetz, NASA Agency Clearance Officer, (202) 453-2941.

Reports

Title: Patent License Report
OMB Number: 2700-0010
Type of Request: Extension
Frequency of Report: Annually
Type of Respondent: Businesses or other for-profit, small businesses or ogranizations
Annual Responses: 600
Annual Burden Hours: 300

Abstract-Needs/Uses: NASA grants licenses to commercial firms for commerical use of NASA inventions. This report is obtained annually from the licenses to determine what commercial use is being made of the inventions.

Title: Aerospace Technologist (AST) Supplemental Qualifications Statement
OMB Number: 2700-0031
Type of Request: Revision
Frequency of Report: On Occasion
Type of Respondent: Individuals or households
Annual Responses: 400
Annual Burden Hours: 400

Abstract-Needs/Uses: In order for NASA to select the best qualified candidates for Aerospace Technologist positions we must ask applicants to provide information concerning their knowledge, skills, abilities and other characteristics related to the positions applied for. The qualifications were developed and recently revised under OPM Uniform Guidelines On Employee Selection Procedures.

L. W. Vogel,

Director, Logistics Management and Information Programs Division.

[FR Doc. 85-11793 Filed 5-15-85; 8:45 am]

BILLING CODE 5710-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Design Arts and Visual Arts Ad Hoc Planning; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Design Arts and Visual Arts Ad Hoc Planning Meeting to the National Council on the Arts will be held on May 20, 1985 from 9:30 am-2:00 pm at the Cooper Union School, President's Office, Cooper Square, 4th Avenue and 8th Street, New York, NY.

This meeting will be open to the public on a space available basis. This is a jointly appointed group to discuss public space design with professionals in the Visual and Design Arts fields.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 85–11846 Filed 5–15–85; 8:45 am]

BILLING CODE 7537–01–M

Literature Advisory Panel; Meeting

Pursuant to section 10 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Translation Fellowships) to the National Council on the Arts will be held on June 6–7, 1985 from 9:00 am—5:30 pm in Room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

A portion of the meeting will be open to the public on June 7, 1985 from 4:00–5:30 pm to discuss policy.

The remaining sessions of this meeting on June 6, 1985 from 9:00 am–5:30 pm and on June 7, 1985 from 9:00 am–4:00 pm are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9 (b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

May 9, 1985.

[FR Doc. 85–11882 Filed 5–15–85; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Challenge Section) to the National Council on the Arts will be held on June 4–5, 1985 from 9:00 am—5:30 pm in Room M–14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

May 9, 1985.

[FR Doc. 85–11881 Filed 5–15–85; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–483]

Union Electric Co. (Callaway Plant, Unit 1); Receipt of Request for Action Under 10 CFR 2.206

Notice is hereby given that by Petition dated March 25, 1985, Alan S. Nemes, Esq., on behalf of Kay Drey and the Missouri Coalition for the Environment, requesting that an order be issued to the Union Electric Company to show cause why the operating license for the Callaway Plant should not be suspended or revoked pending an investigation of the issues described in the Petition, and why the other actions requested therein should not be taken. The issues raised in the petition pertain primarily to the qualification of construction and operations quality assurance personnel. The petition is being handled pursuant to 10 CFR 2.206 and accordingly, appropriate action will be taken on the Petition within a reasonable time.

Copies of the Petition are available for public inspection in the Commission's public document room at 1717 H Street, NW., Washington, DC, 20555 and in the local public document for the Callaway Plant, located at the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, MO, 63130.

Dated at Bethesda, Maryland, this 10th day of May, 1985.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 85–11913 Filed 5–15–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–410]

Niagara Mohawk Power Corp.; Availability of the Final Environmental Statement for Nine Mile Point Nuclear Station, Unit 2

Notice is hereby given that the Final Environmental Statement (NUREG–1085) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Nine Mile Point Nuclear Station, Unit 2 on the southeast shore of Lake Ontario in the town of Scriba, Oswego Count, New York.

Copies of NUREG–1085 are available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, DC 20555, and at the Pennfield Library, State University College, Oswego, New York 13126. The document is also being made available at the State Clearinghouse, New York State Division of the Budget, State Capitol, Albany, New York 12224. The Notice of availability of the Final Environmental Statement for Nine Mile Point Nuclear Station, Unit 2 and request for comments were published in the **Federal Register** on August 17, 1984 (49 FR 32920). The comments received from Federal, State and local agencies and from interested members of the public have been included in the appendices to the Final Environmental Statement.

Copies of the Final Environmental Statement (NUREG–1085) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161 or may be ordered by calling (202) 275–2060 or (202) 275–2171 or by writing to the Superintendent of Document, U.S. Government Printing Office, Post Office Box 37082, Washington, D.C. 20013–7082. All orders should clearly identify the NRC publication number and the requester's GPO deposit account, or VISA or Mastercard number and expiration date.

Dated at Bethesda, Maryland this 9th day of May 1985.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 85-11911 Filed 5-15-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-396]

Notice of Finding of No Significant Environmental Impact Regarding Proposed Amendment to Facility Operating License No. R-123, University of Virginia

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. R-123 for the University of Virginia CAVALIER training reactor located on the campus in Charlottesville, Virginia.

The amendment will renew the Operating License for a period of twenty years from its date of issuance, in accordance with the licensee's application dated June 22, 1984, as supplemented. Opportunity for hearing was afforded by the Notice of Proposed Renewal of Facility License published in the **Federal Register** on August 2, 1984, at 49 FR 31017, as corrected August 15, 1984 at 49 FR 32696. No request for hearing or petition for leave to intervene was filed following notice of the proposed action.

Continued operation of the reactor will not require alteration of buildings or structures, will not lead to changes in effluents released from the facility to the environment, will not increase the probability or consequences of accidents, and will not involve any unresolved issues concerning alternative uses of available resources. Based on the foregoing and on the Environmental Assessment, the Commission concludes that renewal of the license will not result in any significant environmental impacts.

Finding of No Significant Impact

The Commission has prepared an Environmental Assessment, dated May 1, 1985, for this action and has concluded that it will not have a significant effect on the quality of the human environment. Therefore, the Commission has determined not to prepare an Environmental Impact Statement for the proposed action.

Summary of Environmental Impacts as Described in the Environmental Assessment

The proposed action would authorize the licensee to continue operating the reactor in the same manner that it has been operated since 1974. The environmental impacts associated with the continued operation of the facility are discussed in an Environmental Assessment associated with this action. The Assessment concluded that continued operation of the University of Virginia CAVALIER training reactor for an additional twenty years will not result in any significant environmental impacts on air, water, land or biota in the area, and that an Environmental Impact Statement need not be prepared. These conclusions were based on the following:

(a) The excess reactivity available under the technical specifications is insufficient to suport a reactor transient generating enough energy to cause overheating of the fuel or loss of integrity of the cladding;

(b) Even after prolonged operation at a power level of 100 watts, the inventory of fission products in the fuel cannot generate sufficient radioactive decay heat to cause fuel damage even in the hypothetical event of instantaneous total loss of collant, and

(c) The hypothetical loss of integrity of a fueled experiment will not lead to radiation exposures in the unrestricted environment that exceed the guideline values of 10 CFR 20.

For further details with respect to this proposed action, see the application for license renewal dated June 22, 1984, as supplemented, the Environmental Asessment, and the Safety Evaluation Report prepared by the staff (NUREG-1119). These documents and this Notice of Finding of No Significant Environmental Impact are available for public inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, D.C. 20555. Copies may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTENTION: Director, Division of Licensing.

Copies of NUREG-1119 may be purchased by calling (301) 492-9530 or by writing to the Publication Services Section, Document Management Branch, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; or purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 10th day of May 1985.

For the Nuclear Regulatory Commission.

Christopher I. Grimes,

Acting Assistant Director for Safety Assessment Division of Licensing.

[FR Doc. 85-11912 Filed 5-15-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322-OL-3 (Emergency Planning Proceeding)]

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1); Order; Reopened Hearing

Notice is hereby given, pursuant to the Order of the Licensing Board of May 6, 1985, that the reopened hearing on Contention 24.0 will commence at 9:30 a.m. o'clock, local time, on June 4, 1985, in the Court of Claims, State of New York, State Office Building, Veterans Memorial Highway, Hauppauge, New York.

It is so Ordered.

Dated at Bethesda, Maryland this 10th day of May, 1985.

For the Atomic Safety and Licensing Board.

Morton B. Margulies,

Chairman, Administrative Law Judge.

[FR Doc. 85-11909 Filed 5-15-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289-SP]

Restart Remand on Management; Metropolitan Edison Co. et al. (Three Mile Island Nuclear Station, Unit 1); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordancce with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this restart proceeding. As reconstituted, the Appeal Board for this proceeding will consist of the following members:

Gary J. Edles, Chairman
Dr. W. Reed Johnson
Christine N. Kohl

Dated: May 9, 1985.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 85-11910 Filed 5-15-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-282 and 50-306]

Northern States Power Co. (Prairie Island Nuclear Generating Plant Unit Nos. 1 and 2); Exemption

I

The Northern States Power Company (the licensee) is the holder of Facility Operating License Nos. DPR-42 and DPR-60 which authorize operation of the Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2. These licenses provide, among other things, that they are subject to all rules, regulations and

Orders of the Commission now or hereafter in effect.

The facility comprises two pressurized water reactors at the licensee's site located in Goodhue County, Minnesota.

II

By letters dated December 21, 1984 and January 30, 1985, the licensee requested an exemption from the schedular requirements of 10 CFR 50.48(c), which establishes deadlines for the completion of fire protection modifications required by Appendix R to 10 CFR Part 50. Specifically, the licensee requested that the current deadline of December 31, 1984 for the installation of one-hour barriers pursuant to section III.G.2(c) and the exemption issued by letter dated April 26, 1984, be extended to June 1, 1985, for both Prairie Island units. The request applies to Fire Areas 31, 32, 58, 59, 73 and 74, in which areas certain shutdown-related cables are being wrapped to provide the requisite one-hour barrier.

III

The licensee states that the installation of cable wrapping in these fire areas is the only remaining Appendix R modification for the Prairie Island units. In the fire areas mentioned, all other Appendix R measures have been taken to the extent required, i.e., suppression and detection capabilities. Specifically, in Fire Areas 31 and 32 the shutdown related systems are protected by automatic fire detection and fire suppression systems. If a fire should occur in these areas, it would be detected in its initial stages and suppressed by the suppression systems to allow time for the fire brigade to attend the fire during its infancy, before significant propagation occurs. If a rapid temperature rise occurs before the arrival of the fire brigade, the fire suppression system would actuate to control the fire and protect the shutdown systems. We therefore have reasonable assurance that, pending completion of the licensee's Appendix R related modification, a fire in either of these two areas will not result in disabling the shutdown systems to the extent that the safe shutdown could not be achieved and maintained.

In the remaining areas (i.e., 58, 59, 73, and 74) that do not have a fire suppression system, the licensee committed by letter dated January 30, 1985 to implement a roving fire watch patrol in the remaining fire areas for which the schedular relief has been requested. The fire watch will continue until all fire protection related work associated with Appendix R has been completed. The routing of the fire watch will be established so that the patrol observes each area at a frequency of about every 20 minutes to ensure that a fire could not damage redundant safe shutdown related equipment. If a fire were to occur, the control room will be immediately notified and the fire brigade response initiated. Pending the arrival of the fire brigade, the fire watch patrol will be trained in the proper use of portable fire extinguishers in suppressing the fire before significant damage could occur. On this basis, if a fire would occur within an area provided with a fire watch, there is reasonable assurance that it will be detected in its incipient stage before significant flame or temperature rise occurs.

The licensee's efforts to complete the one-hour barrier installation have been delayed somewhat by the late delivery of wrapping material and unforeseen interface problems between environmental qualification work going on at the same time as Appendix R efforts were being planned. The delay in material delivery was due to the large influx of orders which the manufacturer received after approval of the material by the NRC staff. A design hold was placed on the associated cable wrapping in Fire Areas 31 & 32 until the potential issue of relocating the auxiliary feedwater pumps related to environmental qualification was resolved.

The only remaining activity in fire protection at the Prairie Island Nuclear Generating Plant is the installation of the cable wrapping in the affected fire areas. Moreover the staff has judged that the delays encountered by the licensee were unforeseen and could not be avoided. In addition, the interim compensatory measures committed to by the licensee for the extended period will result in maintaining an adequate level of safety that is equivalent to that intended by Appendix R.

The staff finds that the licensee has proceeded diligently to implement Appendix R at the Prairie Island units and that the fire protection measures required by Appendix R have been installed with the sole exception of the cable wrap for which the extension is requested. Under these circumstances, the public health and safety will not be adversely affected by the extension of the deadline for a period of 5 months, especially considering that the work will be accomplished steadily throughout this period.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the following exemption with respect to the requirements of subsection III.G. of Appendix R to 10 CFR Part 50:

Extend the implementation date in 10 CFR 50.48 (c)(2) for installation of modification in Fire Areas 31, 32, 58, 59, 73 and 74 required by Appendix R subsection III.G for both units, from December 31, 1984 to June 1, 1985.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the Exemption will have no significant impact on the environment (50 FR 18333).

Dated at Bethesda, Maryland this 7th day of May, 1985.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85-11908 Filed 5-15-85; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: 10 CFR Part 50, Domestic Licensing of Production and Utilization Facilities.

3. The form number if applicable: Not applicable.

4. How often the collection is required: 3 times/year.

5. Who will be required or asked to report: Owners of nuclear power plants.

6. An estimate of the number of responses: 339 per year.

7. An estimate of the total number of hours needed to complete the requirement or request: 3517 hours/year.

8. An indication of whether section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: The proposed rulemaking updates existing references to specific sections of the ASME Boiler and Pressure Vessel Code that set forth requirements by which nuclear power plant components are constructed and inspected. These requirements provide that plant owners maintain records of certain safety related activities. The records can be used by NRC to audit the performance of these activities. The recordkeeping applies to the owners of nuclear power plants and does not affect the general public.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 395–7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland this 13th day of May 1985.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 11907 Filed 5–15–15; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–54, issued to Sacramento Municipal Utility District (the licensee), for operation of the Rancho Seco Nuclear Generating Station located in Sacramento, California.

To satisfy the habitability requirements of NUREG–0737, Item III.D.3.4, the Control Room Emergency Heating, Ventilating and Air Conditioning (HVAC) System was changed from a single train system into a two-loop redundant full-flow system. In addition, the Control Room Emergency HVAC System was expanded to include the Emergency HVAC requirements for the Technical Support Center (TSC). The new Control Room/TSC Emergency HVAC System is designed to satisfy the habitability requirements of both the Control Room and the TSC.

In accordance with the licensee's application dated February 14, 1985, the proposed amendment would revise the Technical Specifications to incorporate design changes to the Control Room/TSC Emergency Filtering System and the Air Supply System which are subsystems of the new Control Room/TSC Emergency HVAC System. Specifically, the amendment would: (1) Change the name of the Emergency Control Room Filtering System to Control Room/TSC Emergency Filtering System, (2) change the Limiting Condition for Operation (LCO) for the Filtering System to reflect the new design, (3) revise the surveillance testing of the Air Makeup System to reflect new design flow rates and Control Room/TSC positive pressure requirements, and (4) revise surveillance testing of the filtering system to reflect proposed reduced removal efficiencies for testing of the charcoal and HEPA filters and to reflect new design flow rates. The NRC staff earlier reviewed the proposed Technical Specifications for these four items and found the proposed reduced removal efficiencies for testing charcoal and HEPA unacceptable. Subsequently, by letter dated May 6, 1985, the licensee revised the February 14, 1985 application to delete the proposed change of the reduced charcoal and HEPA filter testing (i.e., so that the original tech specs remain unchanged.)

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commisison's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain example (48 FR 14870). Examples of actions likely to involve no significant hazards considerations are Example (i), a purely administrative change to the Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature; and Example (vi), a change which either may result in some increase to the probability or consequence of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan (SRP): for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

The change in name of the Emergency Control Room Filtering System to Control Room/TSC Emergency Filtering System is the same as example (i) of an administrative change because it involves only a nomenclature change.

The modified Control Room/TSC Emergency HVAC System including the Control Room/TSC Emergency Filtering System and the Air Makeup System satisfy the acceptance criteria of SRP Section 6.4 and General Design Criterion 19 of Appendix A to 10. CFR Part 50. Since the changes proposed to the Technical Specifications are necessary to reflect design changes to the Control Room/TSC Emergency HVAC System, this change is similar to Example vi.

Therefore, since the application for amendment involves proposed changes that are similar to examples for which no significant hazards considerations exist, the Commission's staff has made a proposed determination that the application involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By June 17, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a

request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Sacramento City-County Library, 828 I Street, Sacramento, California.

Dated at Bethesda, Maryland, this 14th day of May 1985.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch #4, Division of Licensing.

[FR Doc. 85–11997 Filed 5–15–85; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, June 6, 1985
Thursday, June 13, 1985
Thursday, June 20, 1985
Thursday, June 27, 1985

These meetings will start at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing

Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street NW., Washington, D.C. 20415 (202) 632-9710).

William B. Davidson, Jr., Chairman,

Federal Prevailing Rate Advisory Committee.

May 9, 1935.

[FR Doc. 85-11862 Filed 5-15-85; 8:45 am]

BILLING CODE 6325-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) Collection title: Investigation of Claim for Possible Days of Employment.

(2) Form(s) submitted: ID-5i, ID-5R(SUP), UI-48 and UI-54.

(3) Type of request: Existing regulation (no change proposed).

(4) Frequency of use: On occasion.

(5) Respondents: Individuals or households, small businesses or organizations.

(6) Annual responses: 21,700.

(7) Annual reporting hours: 2,783.

(8) Collection description: Under the RUIA, unemployment or sickness benefits are not payable for any day in which remuneration is payable or accrues to the claimant. The collection information from the claimant, claims agent, railroad and non-railroad employer about work performed during the same period as unemployment benefits are claimed.

Additional Information or Comments

Copies of the proposed froms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy McIntosh (202-395-6880), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 85-11817 Filed 5-15-85; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF STATE

Bureau of Oceans and International Environmental and Scientific Affairs

[Public Notice 937]

United States-Spain Joint Committee for Science and Technology; Announcement Plans

This is to advise that the U.S.-Spain Joint Committee for Scientific and Technological Cooperation plans to publish its next announcement on applied awards in June 1985 with a probable deadline period on submission of cooperative proposals in October 1985.

Separately, interested scientists may submit proposals for cooperative seminars or workshops at this time. Applications for seminars which were received after the November 30, 1984 deadline will also be given consideration at this time. It is expected that action will be taken on these seminar applications by June 1985. Guidelines for such applications are as contained in the **Federal Register** Announcement (Public Notice 912), published in the **Federal Register** of August 17, 1984. Applications for Joint Seminars or Workshops may be submitted on the 1984 Seminar Form Applications. Awards for seminars have been increased to a maximum of $30,000, but the Joint Committee will give serious consideration to proposals submitted for lesser amounts.

Dated: May 3, 1985.

Charles Horner,

Deputy Assistant Secretary for Science and Technology.

[FR Doc. 85-11816 Filed 5-15-85; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Feasibility Study

AGENCY: Federal Aviation Admininstration, DOT.

ACTION: Notice of Study.

SUMMARY: The Federal Aviation Administration (FAA) announces a study on the feasibility and capability of private industry to perform some or all of the functions of the federally operated flight service stations (FSS).

FOR FURTHER INFORMATION CONTACT: Harold W. Becker, Manager, Safety Programs Division, ASF-300, 800 Independence Avenue, SW., Washington, D.C. 20591, 202-426-9472.

Submitted this day, May 7, 1985.

B. Keith Potts,

Deputy Director of Aviation Safety.

[FR Doc. 85-11790 Filed 5-15-85; 8:45 am]

BILLING CODE 4910-13-M

VETERANS ADMINISTRATION

Availability of Report of 38 U.S.C. 219 Program Evaluation

Notice is hereby given that the program evaluation of the Veterans Administration's Domiciliary Care Program has been completed.

Single copies of the Domiciliary Care

Program evaluation are available free. Reproduction of multiple copies can be arranged at the user's expense.

Direct inquiries, specifying the name of the program evaluation desired, to Mrs. Lynn H. Covington, Director, Program Evaluation Service, Veterans Administration (074), 810 Vermont Avenue, NW., Washington, D.C. 20420.

Dated: May 9, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 85-11834 Filed 5-15-85; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 95
Thursday, May 16, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that as its open meeting held at 2:00 p.m. on Monday, May 13, 1985, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director H. Joe Selby (Acting Director of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Memorandum and resolution re: Proposed amendments to Part 332 of the Corporation's rules and regulations, entitled "Powers Inconsistent with Purposes of Federal Deposit Insurance Law," which amendments will govern insured banks' direct and indirect involvement in insurance, real estate, and guarantor or surety activities.

Memorandum and resolution re: Petition for public hearing on proposed amendments to Part 332.

The Board further determined, on motion of Chairman William M. Isaac, seconded by Director H. Sprague (Appointive), concurred in by Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at this meeting, on less than seven days' notice to the public, of the following matter:

Application of Community Bank, North Las Vegas, Nevada, a proposed new bank, for Federal deposit insurance.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: May 13, 1985.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 85–11947 Filed 5–14–85; 11:24 am]
BILLING CODE 6714–01–M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, May 13, 1985, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Application of City Loan Bank, an operating noninsured institution located at 200 West Market Street, Lima, Ohio, for Federal deposit insurance.

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: May 13, 1985.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 85–11948 Filed 5–14–85; 11:24 am]
BILLING CODE 6714–01–M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, May 20, 1985, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance:

The Morris Plan Company of California, an operating noninsured industrial bank located at 425 University Avenue, Palo Alto, California.

Home Thrift & Loan Association, an operating noninsured industrial bank located at 1380 Garnet Avenue, San Diego, California.

Peoples Finance & Thrift Company of Salt Lake City, an operating noninsured industrial bank located at 157 South State Street, Salt Lake City, Utah.

Application for consent to purchase assets and assume liabilities, establish two branches and redesignate the main office:

University Bank and Trust Company, Ames, Iowa, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in Union Story Trust & Savings Bank, Ames, Iowa, to establish two branches of Union Story Trust & Savings Bank as branches of University Bank and Trust Company, and for consent to redesignate the present main office of Union Story Trust & Savings Bank as the main office of University Bank and Trust Company.

Application for consent to consolidate and establish three branches:

First American Bank for Savings, Boston, Massachusetts, an insured mutual savings bank, for consent to consolidate, under its charter and title, with Edward Everett Federal Savings Bank, Boston, Massachusetts, a non-FDIC-insured institution, and to establish the three offices of Edward Everett Federal Savings Bank as branches of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,229–SR: Hereford State Bank, Hereford, Colorado.

Case No. 46,230–SR: Indian Springs State Bank, Kansas City, Kansas.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and resolution re: Final amendments to Parts 303, 304, and 347 of the Corporation's rules and regulations, entitled "Applications, Requests, Submittals, Delegations of Authority, and Notices of Acquisition of Control," "Forms, Instructions, and Reports," and "Foreign Activities of Insured State Nonmember Banks," respectively, which (1) expand the Director of the Division of Bank Supervision's and regional directors' delegated authority to act on (a) requests for approval of minor or nominal deviations from requirements prescribed by prior FDIC action, (b) applications for deposit insurance submitted on behalf of proposed or newly organized nonmember banks, on behalf of State member banks that have withdrawn from membership in the Federal Reserve System, and on behalf of operating noninsured banks or institutions, (c) applications by an insured bank to convert into a noninsured bank or institution, (d) applications by an insured bank to enter into a merger transaction with a noninsured bank or institution, and (e) applications to exercise any trust powers; (2) delegate to the Board of Review the authority to act on (a) applications to establish and operate any new branch or relocate any existing branch, to exercise any trust powers, for deposit insurance filed by State member banks upon withdrawal from membership in the Federal Reserve System, and to reduce the amount or retire any part of common or preferred capital stock, or retire any part of capital notes or debentures, (b) notices of acquisition of control of insured State nonmember banks, and (c) requests for approval of any deviations from requirements prescribed by prior action of the Board of Review taken under delegated authority; (3) substitute letter applications for application forms for banks applying to continue deposit insurance upon withdrawal from the Federal Reserve System and for applications to reduce or retire capital; and (4) make certain technical changes.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: May 13, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85–11949 Filed 5–14–85; 11:24 am]

BILLING CODE 6714–01–M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, May 20, 1985, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: May 13, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 11950 Filed 5–14–85; 11:24 am]

BILLING CODE 6714–01–M

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FEDERAL ELECTION COMMISSION

[Federal Register No. 85–11398]

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, May 16, 1985, 10:00 a.m.

THE FOLLOWING ITEM HAS BEEN CONTINUED FROM THE MEETING OF MAY 9, 1985: Proposed regulations governing standards of conduct for employees.

* * * * *

DATE AND TIME: Tuesday, May 21, 1985, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel

* * * * *

DATE AND TIME: Thursday, May 23, 1985, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, DC.

STATUS: This meeting will be opened to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Eligibility for candidates to receive Presidential Primary Matching Funds
Draft advisory opinion ±1985–16: Robert Neil Weiss
Proposed statement of reasons to accompany notification of Commission's final determination regarding January 28, 1985 statement of net outstanding campaign obligations of the Mondale for President Committee, Inc.
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202–523–4065.

Mary W. Dove,

Administrative Assistant.

[FR Doc. 85–11993 Filed 5–14–85; 3:48 pm]

BILLING CODE 6715–01–M

6

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 20031, May 13, 1985.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., May 15, 1985.

CHANGE IN THE MEETING: The following Docket Numbers and Companies have been added:

Item No., Docket No. and Company

RP–2 TA85–1–47–000, MIGC, Inc.
CP–4(A) CP84–26–000 and 001, Mantaray Pipeline Company and Texas Eastern Pipeline Corporation

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–11919 Filed 5–14–85; 10:00 am]

BILLING CODE 6717–02–M

7

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of May 20, 1985.

A close meeting will be held on Tuesday, May 21, 1985, at 5:30 p.m. Open meetings will be held on Tuesday, May 21, 1985, at 9:30 a.m. and on Thursday, May 23, 1985, at 2:30 p.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Commissioner Marinaccio, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Tuesday, May 21, 1985, at 9:30 a.m., will be:

The Commission will hold a public hearings on oversight of the government securities markets. For further information, please contact Andrew E. Feldman at (202) 272–2388.

The subject matter of the closed meeting scheduled for Tuesday, May 21, 1985, at 5:30 p.m., will be:

Formal orders of investigation.

Settlement of administrative proceedings of an enforcement nature.

Institution of administrative proceedings of an enforcement nature.

institution of injunctive actions.

Application for re-entry into employment in the securities industry.

The subject matter of the open meeting scheduled for Thursday, May 23, 1985, at 2:30 p.m., will be:

1. Consideration of whether to adopt and solicit public comment on temporary Rules 111, 601, 602, and 603 under the Public Utility Holding Company Act and amend Edgar temporary Forms SE, ET and ID to facilitate the participation of public utility holding companies and their subsidiaries in the Edgar Pilot, and allow for electronic filings under the Public Utility Holding Company Act. For further information, please contact Kathleen Brandon at (202) 272–2676.

2. Consideration of whether to amend Rule 15Bc7–1 governing provision of municipal securities dealer examination reports to the Municipal Securities Rulemaking Board. For further information, please contact William Uchimoto at (202) 272–2409.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

Barry Mehyman at (202) 272–2648.

Shirley E. Hollis,

Assistant Secretary.

May 15, 1985.

[FR Doc. 85–12049 Filed 5–15–85; 11:22 am]

BILLING CODE 8010–01–M

8

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors

ENTITY: United States Synthetic Fuels Corporation.

ACTION: Notice of Meeting.

SUMMARY: Interested members of the public are invited to attend and observe the meeting of the Board of Directors of the United States Synthetic Fuels Corporation to be held at the time, date and place specified below. This public announcement is made pursuant to the open meeting requirements of section 116(f)(1) of the Energy Security Act (94 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1)) and Section 4 of the Corporation's Statement of Policy on Public Access to Board meetings. During the meeting, the Board of Directors will consider a resolution to close a portion of the meeting pursuant to Article II, Section 4 of the Corporation's By-laws, Section 116(f) of the said Act and Sections 4 and 5 of the said policy.

MATTERS TO BE CONSIDERED:

Open Session

I. Call to Order—Chairman's Opening Remarks
II. Approval of Board Minutes.
III. Letter of Intent Project Review.
  1. Great Plains
IV. Third General Solicitation Issues
  1. Paraho Ute
V. Solicitation Options
  1. Tar Sands
VI. Fourth General Solicitation Projects—Programmatic Review/Determinations
  1. Keystone
  2. Utah Methanol
  3. ASC/Indiana
VII. Resolution to Close Meeting

Closed Session

VIII. Fourth General Solicitation Projects—Negotiation Status
  1. Keystone
  2. Utah Methanol
  3. ASC/Indiana
IX. Letter of Intent Project Review
  1. Great Plains—Confidential Material
  2. Cathedral Bluffs

TIME AND DATE: 9:00 a.m., May 21, 1985.

PLACE: 2121 K Street, NW., Room 503, Washington, D.C. 20586.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. March Coleman, Assistant General Counsel-Corporate & Litigation, at (202) 822–6571.

March Coleman,

Assistant Secretary.

May 14, 1985.

[FR Doc. 85–11984 Filed 5–14–85; 2:05 pm]

BILLING CODE 0000–00–M

Federal Register

Thursday
May 16, 1985

Part II

Department of Education

Office of Educational Research and Improvement

34 CFR Parts 768, 769, 770, 771, and 772

Library Services and Construction Act—State-Administered Program and Direct Grant Programs for Indian Tribes and Hawaiian Natives, Foreign Language Materials Acquisition, and Literacy; Proposed Rule

DEPARTMENT OF EDUCATION

Office of Educational Research and Improvement

34 CFR Parts 768, 769, 770, 771, and 772

Library Services and Construction Act—State-Administered Program and Direct Grant Programs for Indian Tribes and Hawaiian Natives, Foreign Language Materials Acquisition, and Literacy

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend regulations governing the Library Services and Construction Act State-Administered Program and to issue regulations governing the direct grant programs under the Act. These proposed regulations would implement the Library Services and Construction Act (LSCA) Amendments of 1984 (Title I of Pub. L. 98–480). These proposed regulations would include information on the types of program activities the Secretary supports with funds appropriated under the Library Services and Construction Act (the Act) and the selection criteria for evaluating applications under the Act's direct grant programs.

DATES: Comments must be received on or before June 17, 1985.

ADDRESSES: Comments should be addressed to Mr. Robert Klassen, Chief, State and Public Library Services Branch, U.S. Department of Education (Brown Building, Room 613) 400 Maryland Avenue SW., Washington, D.C. 20202–1630.

FOR FURTHER INFORMATION CONTACT: Robert Klassen. Telephone: (202) 254–9664.

SUPPLEMENTARY INFORMATION:

Background

The LSCA Amendments of 1984 (Title I of Pub. L. 98–480), enacted on October 17, 1984, authorize Federal assistance through fiscal year 1989 for Titles I through IV of the Act, and through fiscal year 1988 for Titles V and VI of the Act.

The Act was originally enacted as the Library Services Act in 1956 (Pub. L. 84–597). In 1964 authorization for spending on construction projects was added, to be followed in 1966 by authorization for spending on interlibrary cooperation projects and projects for the institutionalized and the physically handicapped. In 1970, major amendments were made to the Act including the enactment of provisions for strengthening State library administrative agencies and metropolitan libraries which serve as national or regional resource centers, the removal of matching requirements for interlibrary cooperation, and the streamlining of State plan procedures.

The 1977 amendments to the Act extended the Act for five years and, among other things, established the requirement that Federal funds spent to cover administrative costs be matched with State or other non-Federal funds, as well as providing for special assistance to major urban resource libraries under certain circumstances.

The Omnibus Budget Reconciliation Act (Pub. L. 97–35) extended Title I (Library Services) and Title III (Interlibrary Cooperation) through fiscal year 1984. No funds were authorized to be appropriated for Title II (Public Library Construction) for fiscal years 1982, 1983 and 1984. No provision was made for Title IV (Older Readers Services).

Therefore, the final regulations published March 30, 1984, included no provisions relating to Titles II and IV.

Summary of Major Amendments

The Library Services and Construction Act State-Administered Program.—(a) *Amendments to Title I (Library Services):* Sections 109, 110, and 111 of Pub. L. 98–480 contain amendments to Title I of the Act. Section 109, for example, expands the specific purposes of Title I grants. Thus, a State may use funds under Title I for the establishment, extension, and improvement of public library services to meet the needs of geographic areas or groups of persons in the State who lack those services or for whom current services are inadequate. Other types of projects a State may carry out with funds under Title I include: making library services accessible to individuals who, by reason of distance, residence, handicap, age, literacy level, or other disadvantage, are unable to receive the benefits of public library services regularly made available to the general public; assisting libraries to serve as community information referral centers; and assisting libraries in providing literacy programs for adults and school dropouts in cooperation with other agencies and organizations, if appropriate. (See proposed § 770.10.)

Section 110 of Pub. L. 98–480 amends section 102(a)(1) of the Act by adding that Federal funds under Title I may be used to assist libraries to serve as community centers for information and referral. A provision is also added, by section 111 of Pub. L. 98–480, to ratably reduce the level of fiscal effort which a State must maintain for institutional services and services to the physically handicapped to the extent that Federal allocations to a State are reduced. Section 111 of the LSCA Amendments of 1984 also requires a State to describe how it will develop programs for the elderly which may include one or more of seven different activities listed in section 111. (See proposed §§ 770.10 and 770.40(c)(2).)

Although Title IV of the Act and the proposed regulations would provide funding directly to Indian tribes and organizations primarily serving and representing Hawaiian natives, the Congress indicated that State library administrative agencies should assist Indian tribes and eligible Hawaiian organizations with Title I funds in planning and developing library services to meet their needs. (See H.R. Rep. No. 98–165, 98th Cong., 1st Sess. 7 (May 16, 1983).)

(b) *Amendments to Title II (Public Library Construction):* Under section 112 of the LSCA Amendments of 1984, the Federal share of the cost of construction of any project assisted under Title II cannot exceed one-half of the total cost of the project. This section also contains a provision entitling the Department to recover a portion of its equity interest within 20 years after completion of the construction of any library facility constructed in part with funds made available under Title II, if the recipient or its successor in title or possession ceases or fails to be a public or nonprofit institution or the facility ceases to be used as a library facility. However, the Secretary has the option of determining whether there is good cause for releasing the institution from this obligation. (See proposed §§ 770.41(b) and 770.42.)

(c) *Amendments Affecting Both Titles I and II:* Section 108 of Pub. L. 98–480 allows a State to expend funds received under Titles I and II for administrative costs in connection with programs and activities carried out under Title I, II, and III. Administrative expenditures under these titles for any fiscal year may not exceed the greater of 6 percent of the sum of the amounts allotted to each State under Titles I and II for any fiscal year, or sixty thousand dollars ($60,000). (See proposed § 770.43.)

(d) *Amendments to Title III (Interlibrary Cooperation and Resource Sharing):* Section 113 of Pub. L. 98–480 amends Title III of the Act and changes its title from "Interlibrary Cooperation" to "Interlibrary Cooperation and Resource Sharing". Pursuant to section 113, States must now include in their long-range and annual programs a Statewide resource sharing plan which is directed toward eventual compliance

with the new section 304 (Resource Sharing) of the Act. (See proposed §§ 770.12(b)(1)(ii) (A) and (B), 770.23(c)(1)(i), and 770.24(d).)

In addition to the types of libraries listed in section 302(a)(2) of the Act, the Congress indicated that State library administrative agencies should assist Indian tribes and organizations primarily serving and representing Hawaiian natives to participate in resource sharing to the extent possible. (See H.R. Rep. No. 98–165, 98th Cong., 1st Sess. 7 (May 16, 1983).)

(e) *Other Changes to the Library Services and Construction Act State-Administered Program Regulations:* A new clause is added to these proposed regulations prohibiting the inclusion of in-kind contributions among the amounts the State declares that it will have available for expenditure for maintenance of effort purposes under paragraph (b)(5)(i) of § 770.24. This addition is not due to any amendment to the Act, but rather to the fact that section 7(a) of the Act refers to sums from State or local sources, or both, "available for expenditure" and "actually expended".

These proposed regulations also contain a new clause in § 770.50 to make clear that 34 CFR 76.401(b) of EDGAR, which exempts State agencies from having to offer an opportunity for a hearing under certain State-administered programs, does not apply to public library construction grants. This is due to the fact that under section 203 of the Act, with respect to a project for construction of public library facilities, a State must provide an opportunity for a hearing to every local or other public agency whose application for a subgrant for construction has been denied.

(2) *The Library Services and Construction Act Library Service for Indian Tribes and Hawaiian Natives Program.* Pub. L. 98–480 deletes Title IV (Older Readers Services) and introduces a new Title IV entitled "Library Services for Indian Tribes" in its place. The new Title IV was prompted by the findings of the Congress that: (1) Most Indian tribes receive little or no funds under the State-administered Titles I, II, and III of the Act; (2) Indian tribes and reservations are generally considered to be separate nations and seldom are eligible for direct library allocations from States; and (3) the vast majority of Indians living on or near reservations do not have access to adequate libraries or have access to no libraries at all.

Under Title IV, for the purpose of making grants to Indian tribes there will be available 1.5 per cent of the amounts appropriated for Titles I, II, and III for each fiscal year. For the purpose of making grants to organizations primarily serving and representing Hawaiian natives (Hawaiian native organizations), there will be available 0.5 percent of the amounts appropriated for Titles I, II, and III for each fiscal year. The Secretary makes basic grants from these separate allotments to Indian tribes and Hawaiian native organizations which have submitted approved applications under section 403 (Applications for Library Services to Indians) of the Act. After consultation with the Secretary of the Interior, the Secretary has determined that for purposes of this program, an Indian tribe means an Indian tribe, band, nation or other organized group or community certified by the Secretary of the Interior as being eligible for Federal special programs and services. Any allotted funds for which an Indian tribe or Hawaiian native organization has not applied, or has applied but has not qualified, will be reallocated by the Secretary among Indian tribes and Hawaiian native organizations which have submitted approved plans under section 404 (Plans for Library Services to Indians) of the Act as special projects grants. In accordance with sections 403 and 404 of the Act, the Secretary proposes regulations to implement: (1) The Library Services and Construction Act Basic Grants to Indian Tribes and Hawaiian Natives Program, and (2) The Library Services and Construction Act Special Projects Grants to Indian Tribes and Hawaiian Natives Program.

(3) *The Library Services and Construction Act Foreign Language Materials Acquisition Program.* Title V (Foreign Language Materials Acquisition) of the Act, established under section 115 of the LSCA Amendments of 1984, authorizes a new program of grants to State and local public libraries for the acquisition of foreign language materials.

Under Title V, State and local public libraries may submit grant applications to the Department for the acquisition of foreign language materials. The term "foreign language materials" is defined in these proposed regulations to mean "library materials for various age levels in a language other than English." Recipients of grants under Title V will be selected on a competitive basis, and grants awarded are not to exceed fifteen thousand dollars ($15,000) for any fiscal year.

(4) *The Library Services and Construction Act Library Literacy Program.* Title VI (Library Literacy Programs) of the Act, established under section 115 of the LSCA Amendments of 1984, authorizes a new program of grants to State and local public libraries for the support of library literacy programs. Under Title VI, grants to State public libraries are to be used for coordinating and planning library literacy programs and for making arrangements to train librarians and volunteers for carrying out these programs. Grants to local libraries are to be used for: promoting the use of voluntary services of individuals, agencies, and organizations in providing literacy programs; acquiring materials for literacy programs; and providing for the use of library facilities for literacy programs.

The Library Literacy Program was prompted by the findings of the Congress that the role of public libraries has expanded to include literacy training for illiterate and functionally illiterate adults. Literacy activities otherwise permissible under Title I (Library Services) of the Act, such as assisting libraries in providing literacy programs for adults and school dropouts, should not be in conflict with the purposes of the Library Literacy Program.

It was also the recommendation of the Conference Committee (H.R. Rep. No. 1075, 98th Cong., 2d Sess. 21 (1984), also printed at 130 Cong. Rec. H10136, daily ed. September 25, 1984) that applicants for funding show that any proposed project is not in conflict with the State plan required under section 6 of the Act, and that any proposed project demonstrate evidence of cooperation and coordination with other service providers, as appropriate, including State adult education officials or their local representatives.

Recipients of grant awards under the Library Literacy Program will be selected on a competitive basis and no grant for any fiscal year shall exceed twenty-five thousand dollars ($25,000).

(5) *Definitions Under the Library Services and Construction Act Amendments of 1984, Pub. L. 98–480.* No new definitions were added under section 103 to the State-Administered Program (Titles I through III); however, an insertion was made to the definition of "construction" in section 3(2) of the Act. (See proposed § 770.11) In the definition of "State institutional library services" at section 3(9) of the Act, the words in parentheses were added to clarify the types of handicapping conditions permissible under State institutional library services. (See proposed §§ 770.10 and 770.40(c)(1)).

Section 103 of Pub. L. 98–480 adds two new definitions of "Indian tribe" and "Hawaiian native" that are defined in

proposed § 771.4(b) and cross-referenced in proposed § 772.4(b).

Other Information

Readers' attention is drawn to the provision in the Education Department General Administrative Regulations (EDGAR) requiring a State to make available for public inspection "all State plans and related official materials". (34 CFR 76.106 (a)). In the case of the Library Services and Construction Act State-Administered Program, the State plan and all related materials—as described in proposed § 770.21—includes: (1) The basic State plan covering all three types of grants provided under the program, (2) the long-range program that addresses each type of grant for which the State is applying, and (3) the annual program for each type of grant for which the State is applying.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. Under the State-Administered Program, grants for library services, public library construction, and interlibrary cooperation and resource sharing purposes are available only to States and State library administrative agencies. States and State agencies are not considered to be small entities under the Regulatory Flexibility Act. To the extent that these regulations have an impact on small entities, they implement statutory requirements. The regulations concerning the State-Administered Program do not impose any non-statutory requirements that will have a significant economic impact on the small entities affected.

The selection criteria for applications reviewed under the four direct grant programs require the minimum amount of information necessary for a fair appraisal of the qualifications and activities proposed by applicants in order to ensure the funding of high-quality projects.

Paperwork Reduction Act

The information collection requirements contained in these proposed regulations will be sent to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511). Information collection requirements are contained in the following sections: Sections 768.31, 769.31, 770.22, 770.23, 770.24, 771.20, 771.30, 772.20, 772.31.

A copy of comments that only concern information collection requirements should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, 17th Street and Pennsylvania Avenue NW., Washington, D.C. 20503. Attention: Desk Officer for the U.S. Department of Education.

All other comments regarding these proposed regulations should be sent to the Department of Education at the address given at the beginning of this preamble.

Intergovernmental Review

These programs are subject to the requirements of Executive Order 12372 and to the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program. (Please note that Federally) recognized Indian Tribal governments are not subject to Executive Order 12372.)

Initiation of Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 707, Brown Building, 1200 19th Street NW., Washington, D.C. 20202-1630, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available to any other agency or authority of the United States.

List of Subjects

34 CFR Part 768

Education, Foreign Language—Library, Grant Programs, Libraries, Reporting and Recordkeeping Requirements.

34 CFR Part 769

Education, Education of Disadvantaged, Grant Programs—Education, Literacy Program—Libraries, Reporting and Recordkeeping Requirements.

34 CFR Part 770

Aging—libraries, Construction—libraries, Correctional institutions—libraries, Education, Education of disadvantaged, Grant programs—education, handicapped, libraries, Mental health programs—libraries, Penal institutions—libraries, Prisons—libraries, Reporting and recordkeeping requirements.

34 CFR Part 771

Construction—libraries, Grant programs—education, Hawaiian natives—libraries, Indian tribes—libraries, Reporting and recordkeeping requirements.

34 CFR Part 772

Construction—libraries, Grant programs—education, Hawaiian natives—Libraries, Indian tribes—libraries, Reporting and recordkeeping requirements.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

Dated: May 13, 1985.

William J. Bennett,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers: 84-034 (Library Services); 84.154 (Public Library Construction); 84-035 (Interlibrary Cooperation and Resource Sharing); 84.163 (Basic Grants to Indian Tribes and Hawaiian Natives Program and Special Projects Grants to Indian Tribes and Hawaiian Natives Program); 84.166 (Library Services and Construction Act Foreign Language Materials Acquisition Program); and 84.167 (Library Services and Construction Act Library Literacy Program))

The Secretary proposes to amend Title 34 of the Code of Federal Regulations as follows:

1. Part 768 is added to read as follows:

PART 768—THE LIBRARY SERVICES AND CONSTRUCTION ACT FOREIGN LANGUAGE MATERIALS ACQUISITION PROGRAM

Subpart A—General

Sec.

768.1 The Library Services and Construction Act Foreign Language Materials Acquisition Program.
768.2 Who is eligible to apply for a grant under the Foreign Language Materials Program?
768.3 What regulations apply to the Foreign Language Materials Program?
768.4 What definitions apply to the Foreign Language Materials Program?

Subpart B—[Reserved]

Subpart C—[Reserved]

Subpart D—How Does the Secretary Make a Grant?

768.30 How does the Secretary evaluate an application?
768.31 What selection criteria does the Secretary use?

Authority: Library Services and Construction Act, Pub. L. 91-600, 84 Stat. 1660, as amended by the Library Services and Construction Act Amendments of 1984, Pub. L. 98-480, 98 Stat. 2236 (20 U.S.C. 351 *et seq.*), unless otherwise noted.

Subpart A—General

§ 768.1 The Library Services and Construction Act Foreign Language Materials Acquisition Program.

Under the Library Services and Construction Act Foreign Language Materials Acquisition Program—referred to in this part as the Foreign Language Materials Program—the Secretary provides Federal financial assistance for the acquisition of foreign language materials.

(20 U.S.C. 371)

§ 768.2 Who is eligible to apply for a grant under the Foreign Language Materials Program?

State public libraries and local public libraries are eligible to apply for grants under the Foreign Language Materials Program.

(20 U.S.C. 371)

§ 768.3 What regulations apply to the Foreign Language Materials Program?

The following regulations apply to the Foreign Language Materials Program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 75 (Direct Grant Programs), Part 77 (Definitions that Apply to Department Regulations), Part 78 (Education Appeal Board), and Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(b) The regulations in this Part 768.

(20 U.S.C. 371)

§ 768.4 What definitions apply to the Foreign Language Materials Program?

(a) *Definitions in the Act.* The following terms used in this part are defined in section 3 of the Act:

Library service
Public library
Public library services.

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77.1:

Applicant
Application
Budget
Department
EDGAR
Equipment
Facilities
Grant
Project
Secretary
State
Supplies

(c) *Definitions that apply to this part.* The following definitions also apply to this part:

"Act" means the Library Services and Construction Act (Pub. L. 91-600), as amended by the Library Services and Construction Act Amendments of 1984 (Pub. L. 98-480).

"Foreign language materials" means library materials for various age levels in a language other than English.

"Library materials" means books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microforms, pictorial works, graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, processed video and magnetic tapes, and materials designed specifically for the handicapped.

(20 U.S.C. 351 *et seq.*)

Subpart B—[Reserved]

Subpart C—[Reserved]

Subpart D—How Does the Secretary Make a Grant?

§ 768.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 768.31.

(b) The Secretary awards up to 100 possible points for these criteria.

(c) The maximum possible score for each complete criterion is indicated in parentheses.

(20 U.S.C. 371(b))

§ 768.31 What selection criteria does the Secretary use?

(a) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(b) *Quality of key personnel.* (20 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine personnel qualifications, the Secretary considers experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost-effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. (See 34 CFR 75.590—Evaluation by the grantee.)

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Need and anticipated benefits.* (20 points)

(1) The Secretary reviews each application to determine the need for the proposed project and the anticipated benefits of the project.

(2) The Secretary looks for information that shows—

(i) The extent to which the applicant has surveyed or otherwise studied the geographic area for which it provides public library services to determine the need for library materials in a particular foreign language or particular foreign languages;

(ii) The extent to which the applicant has received requests for materials in that language or those languages;

(iii) Whether the proposed project would duplicate in the geographic area other collections of library materials available to the general public in the same foreign language or languages; and

(iv) The benefits likely to be derived by the general public or a particular segment of the public as a result of the proposed project.

(20 U.S.C. 371(b))

2. Part 769 is added to read as follows:

PART 769—THE LIBRARY SERVICES AND CONSTRUCTION ACT LIBRARY LITERACY PROGRAM

Subpart A—General

Sec.

769.1 The Library Services and Construction Act Library Literacy Program.
769.2 Who is eligible to apply for a grant under the Library Literacy Program?
769.3 What regulations apply to the Library Literacy Program?
769.4 What definitions apply to the Library Literacy Program?

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

769.10 For what types of projects does the Secretary provide assistance to State public libraries?
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Subpart C—[Reserved]

Subpart D—How Does the Secretary Make a Grant?

769.30 How does the Secretary evaluate an application?
769.31 What selection criteria does the Secretary use?

Authority: Library Services and Construction Act, Pub. L. 91-600, 84 Stat. 1660, as amended by the Library Services and Construction Act Amendments of 1964, Pub. L. 98-480, 98 Stat. 2236 (20 U.S.C. 351 *et seq.*), unless otherwise noted.

Subpart A—General

§ 769.1 The Library Services and Construction Act Library Literacy Program.

Under the Library Services and Construction Act Library Literacy Program—referred to in this part as the Library Literacy Program—the Secretary provides Federal financial assistance for literacy projects.

(20 U.S.C. 375(a))

§ 769.2 Who is eligible to apply for a grant under the Library Literacy Program?

State public libraries and local public libraries are eligible to apply for grants under the Library Literacy Program.

20 U.S.C. 375(a))

§ 769.3 What regulations apply to the Library Literacy Program?

The following regulations apply to the Library Literacy Program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 75 (Direct Grant Programs), Part 77 (Definitions that Apply to Department Regulations), Part 78 (Education Appeal Board), and Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(b) The regulations in this Part 769.

(20 U.S.C. 375(a))

§ 769.4 What definitions apply to the Library Literacy Program?

(a) *Definitions in the Act.* The following terms used in this part are defined in section 3 of the Act:

Public Library
State library administrative agency.

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77.1:

Applicant
Application
Budget
Department
EDGAR
Equipment
Facilities
Grant
Project
Secretary
State
Supplies

(c) *Definitions that apply to this part.* The following definitions also apply to this part:

"Act" means the Library Services and Construction Act (Pub. L. 91-600), as amended by the Library Services and Construction Act Amendments of 1984 (Pub. L. 98-480).

"Adult" means an individual in any State who has exceeded the maximum age for compulsory schooling in that State.

"Functionally illiterate adult" means an adult whose minimal skills in reading, writing, or comprehension or in performing basic arithmetical computations precludes the individual from functioning in society without assistance from others.

"Illiteracy" means the inability to read, write, or comprehend or to perform basic arithmetical computations.

"Library materials" means books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microforms, pictorial works, graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, processed video and magnetic tapes, and materials designed specifically for the handicapped.

"Literacy" means the ability of an individual to read, write, and comprehend and to perform basic arithmetical computations.

"Literacy program" means a project or activity designed to help individuals improve their ability to read, write, or comprehend or to perform basic arithmeflcal computations.

"State public library" means, for this program, the State library administrative agency.

(20 U.S.C. 351 *et seq.*)

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

§769.10 For what types of projects does the Secretary provide assistance to State public libraries?

(a) The Secretary provides assistance to State public libraries for projects designed to do either or both of the following:

(1) Coordinate and plan library literacy programs.

(2) Arrange for the training of librarians and volunteers to carry out these types of programs.

(b) These projects may include, but are not restricted to, one or more of the following types of activities:

(1) Assisting libraries to provide literacy programs for adults in cooperation with other agencies and organizations, if appropriate.

(2) Providing in-service training for librarians and volunteers in the use of appropriate library materials for illiterate or functionally illiterate adults.

(3) Assisting or training librarians and volunteers in extending library literacy programs to groups and individuals that may not be adequately served by existing programs. Examples of these types of persons include—

(i) The handicapped;

(ii) The institutionalized;

(iii) Older Americans; and

(iv) Other disadvantaged individuals.

(20 U.S.C. 357(b))

§769.11 For what types of projects does the Secretary provide assistance to local public libraries?

(a) The Secretary provides assistance to local public libraries for projects designed to do one or more of the following:

(1) Promote the use of the voluntary services of individuals, agencies, and organizations in providing literacy programs.

(2) Acquire library materials for literacy programs.

(3) Use library facilities for literacy programs.

(b) These projects may include, but are not restricted to, one or more of the following types of activities:

(1) Promoting the use of volunteers in disseminating information about literacy programs.

(2) Training volunteers to serve local literacy programs.

(3) Acquiring library materials designed to improve the literacy of illiterate and functionally illiterate adults.

(4) Conducting literacy programs for adults.

(5) Encouraging other libraries in the community to volunteer the use of their facilities for literacy programs.

(20 U.S.C. 357(c))

Subpart C—[Reserved]

Subpart D—How Does the Secretary Make a Grant?

§769.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 769.31.

(b) The Secretary awards up to 100 possible points for these criteria.

(c) The maximum possible score for each complete criterion is indicated in parentheses.

(20 U.S.C. 375(d))

§769.31 What selection criteria does the Secretary use?

(a) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial of ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(b) *Quality of key personnel.* (20 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine personnel qualifications, the Secretary considers experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost-effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. (See 34 CFR 75.590—Evaluation by the grantee.)

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the application plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Cooperation and coordination.* (20 points)

(1) The Secretary reviews each application to determine the extent to which the applicant plans to cooperate and coordinate its proposed project with other parties providing similar or related services.

(2) The Secretary looks for information that shows—

(i) That the applicant—

(A) Has identified other providers of literacy-related services, including State or local adult education agencies or both, as appropriate;

(B) Has identified the services provided by these parties; and

(C) Has communicated with officials of these parties or their representatives; and

(ii) The specific measures of cooperation and coordination the applicant has proposed.

(20 U.S.C. 357(d); H. Conf. Rept. No. 98-1075, 98th Cong. 2d Session (1984), p. 21)

3. Part 770 is revised to read as follows:

PART 770—THE LIBRARY SERVICES AND CONSTRUCTION ACT STATE-ADMINISTERED PROGRAM

Subpart A—General

Sec.
770.1 The Library Services and Construction Act State-Administered Program.
770.2 Who is eligible to apply for a grant under the State-Administered Program?
770.3 What regulations apply to the State-Administered Program?
770.4 What definitions apply to the State-Administered Program?

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

770.10 What types of projects may be funded under Library Services grants?
770.11 What types of projects may be funded under Public Library Construction grants?
770.12 What types of projects may be funded under Interlibrary Cooperation and Resource Sharing grants?

Subpart C—How Does a State Apply for a Grant?

770.20 What must a State do to receive a grant under the State-Administered Program?
770.21 What must a State plan include?
770.22 What must a State include in a basic State plan?
770.23 What must a State include in a long-range program?
770.24 What must a State include in an annual program?

Subpart D—How Does the Secretary Make a Grant to a State?

770.30 What special conditions does the Secretary apply in considering an application for a grant?

Subpart E—What Conditions Must Be Met by a State and Its Subgrantees?

770.40 What are a State's financial obligations under a Library Services grant?
770.41 What are a State's financial obligations under a Public Library Construction grant?
770.42 What other financial obligations does a recipient have under a Public Library Construction grant?
770.43 What administrative costs are allowable under this program?

Subpart F—What Are the Administrative Responsibilities of a State and Its Subgrantees?

770.50 Under what circumstances must a State provide an applicant with an opportunity for a hearing?

Authority: Library Services and Construction Act, Pub. L. 91-600, 84 Stat. 1660, as amended by the Library Services and Construction Act Amendments of 1984, Pub. L. 98-480, 98 Stat. 2236 (20 U.S.C. 351 *et seq.*), unless otherwise noted.

Subpart A—General

§ 770.1 The Library Services and Construction Act State-Administered Program.

Under the Library Services and Construction Act State-Administered Program—referred to in this part as the State-Administered Program—the Secretary provides Federal funds to assist States to—

(a) Extend and improve public library services;

(b) Construct and renovate public libraries; and

(c) Develop and strengthen interlibrary cooperation and resource sharing.

(20 U.S.C. 351, 353, 355b, 355e)

§ 770.2 Who is eligible to apply for a grant under the State-Administered Program?

Under the State-Administered Program the following parties are eligible to apply:

(a) States are eligible to apply to the Secretary for—

(1) Library Services grants under title I of the Act;

(2) Public Library Construction grants under title II of the Act; and

(3) Interlibrary Cooperation and Resource Sharing grants under title III of the Act.

(b)(1) Public libraries are eligible to apply to their respective States for subgrants under each type of grant specified in paragraph (a) of this section.

(2) In the case of Interlibrary Cooperation and Resource Sharing grants, a State may also permit other types of libraries to apply for subgrants.

(20 U.S.C. 351d, 352, 355a, 355e)

§ 770.3 What regulations apply to the State-Administered Program?

The following regulations apply to the State-Administered Program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 76 (State-Administered Programs), Part 77 (Definitions that Apply to Department Regulations), Part 78 (Education Appeal Board), and Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(b) The regulations in this Part 770.

(20 U.S.C. 351 *et seq.*)

§ 770.4 What definitions apply to the State-Administered Program?

(a) *Definitions in the Act.* The following terms used in this part are defined in section 3 of the Act:

Annual program
Basic State plan
Indian tribe
Hawaiian native
Library service
Library services for the physically handicapped

Long-range program, except that this program may cover a period of not fewer than three nor more than five years.

(20 U.S.C. 351d)

Major urban resource library
Public library
Public library services
State Advisory Council on Libraries
State institutional library services
State library administrative agency

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77.1:

Acquisition
Applicant
Application
Department
EDGAR
Facilities
Fiscal year
Grant
Grantee
Nonprofit
Private
Project
Public
Secretary
State
Subgrant
Subgrantee

(c) *Definitions that apply to this part.* The following definitions apply to this part:

"Act" means the Library Services and Construction Act (Pub. L. 91-600), as amended by the Library Services and Construction Act Amendments of 1984 (Pub. L. 98-480).

"Community information referral center" means a center that provides information and makes referrals to link people in need of services to appropriate resources.

"Disadvantaged persons" means persons whose socio-economic or educational deprivation or whose cultural isolation from the general

comunity may preclude them from benefiting from public library services to the same extent as the general community benefits from these services.

"Handicapped" means, for purposes of this program, mentally retarded, hearing impaired, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or otherwise health impaired.

"Illiteracy" means the inability of an individual to read, write, or comprehend or to perform basic arithmetical computations.

"Interlibrary cooperation" means the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers.

"Interlibrary Cooperation and Resource Sharing grants" means Federal financial assistance provided by the Secretary under title III of the Act.

"Library materials" means books, periodicals, newspapers, documents, pamphlets photographs, reproductions, microforms, pictorial works, graphic works, musical scores, maps, charts globes, sound recordings, slides, films, filmstrips, processed video and magnetic tapes, and materials designed specifically for the handicapped.

"Library Services grants" means Federal financial assistance provided by the Secretary under title I of the Act.

"Limited English-speaking proficiency," where used with reference to individuals, means individuals who—

(1) (i) Were not born in the United States or whose native tongue is a language other than English;

(ii) Come from environments where a language other than English is dominant; or

(iii) Are American Indian and Alaskan Natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency; and

(2) Because of the reason(s) listed in paragraph (1) (i), (ii), or (iii) of this definition, have sufficient difficulty speaking, writing, or understanding the English language to be denied the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in society. (See section 703 (a) of Title VII of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 3223))

"Literacy" means the ability of an individual to read, write, and comprehend and to perform basic arithmetical computations.

"Literacy program" means a project or activity designed to help individuals improve their ability to read, write, or comprehend or to perform basic arithmetical computations.

"Public Library Construction grants" means Federal financial assistance provided by the Secretary under title II of the Act.

(20 U.S.C. 351 *et seq.*)

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

§ 770.10 What types of projects may be funded under Library Services grants?

(a) The Secretary awards Library Services grants to assist projects designed to plan for, establish, extend, or improve public library services.

(b) The types of projects referred to in paragraph (a) of this section may include, but are not restricted to, the following:

(1) Extending public library services to areas and populations that lack these services.

(2) Improving public library services to ensure that these services are adequate to meet the needs of specific areas and populations.

(3) (i) Making public library services accessible to individuals who, because of a disadvantage, are unable to benefit from public library services regularly made available to the general public.

(ii) These disadvantages include, but are not restricted to, distance, residence, handicap, age, literacy level, and limited English-speaking proficiency.

(4) (i) Improving State and local public library services for—

(A) The elderly; and

(B) Handicapped, institutionalized, and other disadvantaged individuals.

(ii) Services for the elderly may include, but are not restricted to, the following:

(A) Training librarians to work with the elderly.

(B) Conducting special library programs for the elderly, particularly for the elderly who are handicapped.

(C) Purchasing special library materials for use by the elderly.

(D) Paying salaries for elderly persons who work in libraries as assistants on programs for the elderly.

(E) Providing to the elderly home visits by librarians and other library personnel.

(F) Establishing programs to notify the elderly about the availability of library services.

(G) Furnishing transportation to enable the elderly to have access to library services.

(5) Adapting public library services to meet particular needs of individuals.

(6) Assisting libraries to serve as community information referral centers.

(7) (i) Assisting libraries in providing literacy programs for adults and school dropouts.

(ii) If possible and appropriate, applicants shall propose to conduct these literacy programs in cooperation with other agencies and organizations.

(8) Strengthening the capacity of the State library to meet the needs of the people of the State with regard to library services, facilities, and resources.

(9) Supporting and expanding the services of major urban resource libraries that meet the demands of individual users and other libraries.

(10) Establishing, expanding, and operating programs to provide—

(i) State institutional library services;

(ii) Library services to the handicapped; and

(iii) Library services for the disadvantaged in urban and rural areas.

(11) Strengthening metropolitan libraries that serve as national or regional resource centers.

(12) Increasing public library services or access to these services through effective use of technology.

(20 U.S.C. 351(a), 351a, 351 note(b)(4), 352, 353)

§ 770.11 What types of projects may be funded under Public Library Construction grants?

(a) The Secretary awards Public Library Construction grants to assist projects designed to carry out the activities in paragraphs (b) and (c) of this section.

(b) As used in this part, "construction" includes the following:

(1) Construction of new buildings.

(2) Acquisition, expansion, remodeling, or alteration of existing buildings.

(3) (i) Initial equipment for any building referred to in paragraphs (b)(1) and (b)(2) of this section.

(ii) As used in paragraph (b)(3)(i) of this section, "equipment" includes the following:

(A) Machinery.

(B) Utilities.

(C) Built-in equipment.

(D) Enclosures or structures necessary to house the types of items listed in paragraphs (b)(3)(ii) (A) through (C) of this section.

(E) All other items necessary for the functioning of a particular facility as a

facility for the provision of library services.

(4) Architectural services.

(5) Acquisition of land.

(6) Within public libraries, construction of spaces that—

(i) Provide shelter from nuclear fallout; and

(ii) Are constructed at a nominal cost as part of a larger project.

(7) Any combination of two or more of the activities referred to in paragraphs (b)(1) through (b)(6) of this section.

(c) As used in this part, "remodeling" includes the following:

(1) Remodeling to meet the standards of the Architectural Barriers Act of 1968.

(2) Remodeling designed to conserve energy.

(3) Renovation or remodeling to accommodate new technologies.

(4) Purchase of existing historic buildings for conversion to public libraries.

(20 U.S.C. 351a(2), 355a, 355c; EO 11490, as amended)

§ 770.12 What types of projects may be funded under Interlibrary Cooperation and Resource Sharing grants?

(a) The Secretary awards Interlibrary Cooperation and Resource Sharing grants to assist projects designed to enable various types of libraries to share resources and materials.

(b) These types of projects may include, but are not restricted to, the following:

(1) (i) Planning for, and taking other steps leading to the development of, cooperative library networks.

(ii) Planning may include—

(A) Development of a statewide resource sharing plan directed toward eventual compliance with section 304 of the Act; or

(B) One or more of the items listed in section 304(c) of the Act.

(2) (i) Establishing, expanding, or operating local, regional, or interstate cooperative library networks.

(ii) As used in paragraph (b)(2)(i) of this section, "cooperative library networks" are those networks designed to—

(A) Provide for the systematic and effective coordination of the resources of various types of libraries, including school, public, academic, and special libraries and information centers; and

(B) Improve supplementary services for the special clientele served by these types of libraries.

(20 U.S.C. 351(a), 355e, 355e–1(a), 355e–2)

Subpart C—How Does a State Apply for a Grant?

§ 770.20 What must a State do to receive a grant under the State-Administered Program?

(a) In order to receive a grant under the State-Administered Program, a State must—

(1) Establish a State Advisory Council on Libraries; and

(2) After consulting with the council, submit to the Secretary by the various dates established by the Secretary the three parts of a State plan, as described in § 770.21.

(b) The Secretary does not consider the other parts of the plan until the Secretary has approved the basic State plan

(20 U.S.C. 351d(a))

§ 770.21 What must a State plan include?

A State plan must consist of the following three parts:

(a) (1) A basic State plan, as described in § 770.22, covering a five-year period.

(2) The State shall submit one basic plan to cover all three types of grants provided under this program:

(i) Library Services grants.

(ii) Public Library Construction grants.

(iii) Interlibrary Cooperation and Resource Sharing grants.

(b) (1) A long-range program, as described in § 770.23, covering a period of not fewer than three years and not more than five years.

(2) The State library administrative agency shall develop the long-range program—

(i) With the advice and assistance of the State Advisory Council on Libraries; and

(ii) In consultation with the Secretary.

(3) The State shall—

(i) Submit a long-range program that addresses each type of grant for which the State is applying;

(ii) Review the program each year;

(iii) Revise the program each year according to changing needs and the results of evaluations and surveys; and

(iv) Submit the revised program to the Secretary.

(c) An annual program, as described in § 770.24, for each type of grant for which the State is applying.

(20 U.S.C. 351d(a))

§ 770.22 What must a State include in a basic State plan?

A State shall include the following in its basic State plan:

(a) Assurance that the State library administrative agency—

(1) Will administer or supervise the administration of all programs and projects in the State assisted under the State-Administered Program;

(2) Has the fiscal and legal authority and capability to administer or supervise the administration of programs and projects assisted under the State-Administered Program;

(3) Has established or will establish policies, priorities, criteria, and procedures necessary to implement the program in the State;

(4) (i) Will make the reports the Secretary reasonably requires to—

(A) Carry out the Secretary's functions under the program; and

(B) Determine the extent to which funds provided under the program have been effective in carrying out the purposes of the program;

(ii) Will include in these reports, if requested by the Secretary, reports of evaluations made under the State plan; and

(iii) Will make the reports in the form and containing the information reasonably required by the Secretary; and

(5) (i) Will keep the records the Secretary finds necessary to assure the correctness and verification of the reports referred to in paragraph (a) (4) of this section; and

(ii) Will give the Secretary access to the records as the Secretary finds necessary.

(b) Assurances that—

(1) Any funds paid to the State under a long-range program and an annual program will be expended only for the purposes for which the funds have been authorized and appropriated; and

(2) The State has adopted the necessary fiscal control and fund accounting procedures to assure proper disbursement of, and to account for, Federal funds paid—

(i) To the State under the State-Administered Program; and

(ii) By the State to any other agency under the program.

(c) An assurance that the State will give priority to proposed projects designed to carry out one or more of the following objectives:

(1) To improve access to public library resources and services for the least served populations in the State, including—

(i) Projects for individuals with limited English—speaking proficiency;

(ii) Projects for individuals who are handicapped; and

(iii) Projects in urban and rural areas.

(2) To serve the elderly.

(3) To combat illiteracy.

(4) To increase library services and access to services through effective use of technology.

(20 U.S.C. 351a(11), 351d(b))

§ 770.23 What must a State include in a long-range program?

(a) A State shall include the following in a long-range program:

(1) A description of the State's identified present and projected library needs with respect to library services, public library construction, or interlibrary cooperation and resource sharing, as appropriate.

(2) A plan for meeting those identified needs with Federal funds made available through the appropriate type of grant under the State-Administered Program.

(3) (i) The State's policies, priorities, criteria, and procedures for administering this type of grant and appropriate subgrants under the State-Administered Program.

(ii) A description of how the State plans to implement the priorities in § 770.22(c).

(4) A description of the State's policies and procedures regarding each of the following:

(i) The periodic evaluation of the effectiveness of projects supported under this type of grant.

(ii) The appropriate dissemination of—

(A) The results of the evaluation referred to in paragraph (a)(4)(i) of this section; and

(B) Other information pertaining to these projects.

(iii) The coordination of projects assisted under this type of grant with similar library programs and projects operated by other libraries, institutions, and agencies in the State.

(b) In the case of an application for a Public Library Construction grant, the State shall also include in its long-range program the policies and procedures to be followed by the State library administrative agency in providing an opportunity for a hearing to a local or other public agency whose application for a subgrant is denied.

(c) In the case of an application for an Interlibrary Cooperation and Resource Sharing grant, the State shall also include the following in its long-range program:

(1) (i) A statewide resource sharing plan directed toward eventual compliance with the provisions of section 304 of the Act.

(ii) In developing the plan, the State library agency, with the assistance of the State Advisory Council on Libraries, shall consider recommendations from current and potential participating institutions in interlibrary cooperation and resource sharing projects authorized under the Act.

(2) (i) An identification of interlibrary cooperation and resource sharing objectives to be achieved during the period covered by the basic State plan and the long-range program.

(ii) These objectives may include, but are not restricted to, one or more of the items listed in section 304(c) of the Act.

(20 U.S.C. 351(a), 351a(12), 355c, 351d(a)(d); 355e, 355e–2, 355e–3)

§ 770.24 What must a State include in an annual program?

(a) A State shall include the following in an annual program:

(1) A description of the projects and activities the State plans to carry out—or for which the State plans to award subgrants—during the specified year with regard to library services, public library construction, or interlibrary cooperation and resource sharing, as appropriate.

(2) A description of how these projects and activities would—

(i) Be consistent with purposes specified in the Act and in §§ 770.10, 770.11, or 770.12, as appropriate;

(ii) Fulfill the objectives of the State's long-range program or the update of the long-range program; and

(iii) Meet the needs identified by the State in the long-range program.

(3) A description of the criteria the State plans to use in allocating funds.

(4) (i) A demonstration that the manner in which the State proposes to carry out the annual program is consistent with the policies, criteria, priorities, and procedures specified in the long-range program or the update of the long-range program.

(ii) In meeting this requirement, the State shall address, among other items, policies and procedures regarding evalutions, dissemination, and coordination, as described in § 770.23(a)(4).

(5) A description of how proposed projects and activities are to be based on the results of evalutions undertaken according to the long-range program.

(6) A demonstration that proposed projects and activities would meet the assurance given by the State in its basic State plan to implement the priorities specified in § 770.22(c), if appropriate.

(7) The amount of Federal funds the State plans to spend to carry out its administrative functions under the grant, as specified in § 770.43.

(b) In the case of an application for a Library Services grant, the State shall also include the following in its annual program:

(1) The criteria the State plans to use to ensure that the State meets the financial obligations specified in § 770.40(c).

(2) A description of how the State plans to allocate funds to support and expand library services of major urban resource libraries if—

(i) The sum appropriated for the year exceeds the amount specified in section 102(c)(1) of the Act; and

(ii) The State has one or more cities with populations of at least 100,000 individuals.

(3) A description of how the State plans to use funds for projects and activities for the elderly.

(4) A description of how the State plans to use funds to make library services more accessible to handicapped persons.

(5) (i) To enable the Secretary to make a determination of payment under section 7(a) of the Act (Payments to States), a statement of the amounts the State will have available for expenditure for the proposed projects and activities during the period covered by the annual program from—

(A) State sources; and

(B) Local sources.

(ii) The State may not include in-kind contributions among the amounts the State declares it will have available for expenditure under paragraph (b)(5)(i) of this section.

(c) In the case of an application for a Public Library Construction grant, the State shall also include in its annual program a description of how the State plans to use funds that year, consistent with the long-range program, for construction of public libraries in areas of the State lacking the library facilities necessary to provide adequate library services.

(d) In the case of an application for an Interlibrary Cooperation and Resource Sharing grant, the State shall also include in its annual program a description of how the proposed projects and activities would meet the requirements of the Act and of § 770.23(c) with respect to—

(1) The statewide resource sharing plan; and

(2) The interlibrary cooperation and resource sharing objectives identified in the long-range program.

(20 U.S.C. 351, 351a(13), 351d(a), (b)(4); 351e(a)(1), 354, 355c, 355e–2, 355e–3)

Subpart D—How Does the Secretary Make a Grant to a State?

§ 770.30 What special conditions does the Secretary apply in considering an application for a grant?

(a) The Secretary considers an applicant's long-range program and annual program for a grant under this

part only if the Secretary has approved the applicant's basic State plan.

(b)(1) In the case of an application for a Library Services grant, the Secretary makes a grant to a State only if the Secretary has determined that the State will have the following amounts available for expenditure for the projects and activities proposed in its annual program during the period covered by the annual program:

(i) From combined State and local sources an amount—

(A) Sufficient to enable the State to receive not less than its minimum allotment under the Act; and

(B) Not less than the total amount actually expended from State and local sources for services provided under a Library Services grant during the second year preceding the year covered by the annual program.

(ii) From State sources an amount not less than the total amount actually expended from State sources for services provided under a Library Services grant during the second year preceding the year covered by the annual program.

(2) The requirements in paragraph (b)(1) of this section do not apply to an application from the Trust Territory of the Pacific Islands.

(20 U.S.C. 351e, 354, 355c, 355e–2)

Subpart E—What Conditions Must Be Met by a State and Its Subgrantees?

§ 770.40 What are a State's financial obligations under a Library Services grant?

A State that receives a Library Services grant shall meet the following financial obligations:

(a) The State shall meet the maintenance-of-effort requirement in § 770.30(b).

(b) The State shall provide the difference between—

(1) The cost of services financed under the grant for that year; and

(2) The Federal share of these costs, as specified in section 7(b) of the Act.

(c) (1) For State institutional library services and library services to institutionalized individuals, and for library services to the physically handicapped, the State shall spend from Federal, State, and local sources an amount not less than the amount the State spent from those sources for those services during the second year preceding the year for which the Secretary makes the grant.

(2) If the Federal allocation for the State's Library Services grant is reduced, the Secretary informs the State that the amount the State is required to spend under paragraph (c)(1) of this section is ratably reduced.

(d) If the amount of the grant obligates the State to allocate funds to support and expand library services of major urban resource libraries (see sections 102(a)(3) and (c) of the Act and § 770.24(b)(2)), the State may not reduce the amount it pays to an urban resource library below the amount the State paid to that library in the preceding year.

(20 U.S.C. 351e(b), 354)

§ 770.41 What are a State's financial obligations under a Public Library Construction grant?

(a) A state that receives a Public Library Construction grant shall provide, from State or local sources or both, the difference between—

(1) The costs of projects financed under the grant for that year; and

(2) The Federal share of these costs, as specified in section 7(b) of the Act.

(b) In case of any individual project under a Public Library Construction grant, at least one half of the total cost must be supplied by State or local sources or both.

(20 U.S.C. 351e(b), 355b(b))

§ 770.42 What other financial obligation does a recipient have under a Public Library Construction grant?

(a) Unless released from the obligation by the terms of paragraph (c) of this section, a recipient of Federal financial assistance under a Public Library Construction grant—or the recipient's successor in title or possession—shall repay to the United States on request an amount as specified in paragraph (b) of this section if, within 20 years of the completion of construction of the library facility—or part of a facility—for which the assistance was received—

(1) The recipient or its successor ceases or fails to be a public or nonprofit institution; or

(2) The facility ceases to be used as a library facility.

(b) The amount the recipient or its successor may be obligated to repay is an amount that equals—

(1) The value of the facility or part of the facility at the time of the occurrence specified in paragraph (a)(1) or (a)(2) of this section; multiplied by

(2) The ratio of—

(i) The amount of the Federal assistance under the grant or subgrant; to

(ii) The cost of the facility or part of the facility for which the assistance was received.

Example. In 1974 a local public library completed a project to enlarge its reading room. The project had been assisted by a subgrant from the State under a Public Library Construction grant. The total cost of the project was $300,000; the subgrant had amounted to $120,000 a ratio of 2 to 5 or 40 percent of the cost.

In 1986 the local library moves to another district, and the facility for which it received assistance in 1974 ceases to be used as a library facility. It is determined that the part of the facility for which assistance was received has a current market value of $400,000.

The United States is entitled to recover from the local public library an amount equal to 40 percent of the current market value of the facility or portion of the facility assisted with Federal funds; that is, 40 percent of $400,000 or $160,000.

(c) The Secretary may decide, for good cause, to release the recipient from its obligation under paragraph (a) of this section.

(d) The provisions of this section apply to any facility constructed at any time with assistance under Title II of the Library Services and Construction Act.

(20 U.S.C. 355b)

§ 770.43 What administrative costs are allowable under this program?

(a) A State library administrative agency may spend funds received under a Library Services grant and funds received under a Public Library Construction grant to carry out its administrative functions under a Library Services grant, a Public Library Construction grant, and an Interlibrary Cooperation and Resource Sharing grant.

(b) The total amount the agency may spend to carry out its administrative functions under all of these grants during any year may not exceed the amount specified in section 8 of the Act (Administrative Cost).

(c) The agency may spend the funds for administrative costs in connection with the following activities:

(1) Administration of the State plan, including obtaining the services of consultants.

(2) Statewide planning for and evaluation of library services.

(3) Dissemination of information concerning library services.

(4) Activities of the State Advisory Council on Libraries and of any other advisory groups and panels necessary to assist the State library administrative agency in carrying out its functions.

(20 U.S.C. 351f, 353(b))

Subpart F—What Are the Administrative Responsibilities of a State and Its Subgrantees?

§ 770.50 Under what circumstance must a State provide an applicant with an opportunity for a hearing?

(a)(1) In the case of a Public Library Construction grant, if a State denies funds to a local or other public agency that applies for a subgrant for construction of public library facilities, the State library administrative agency shall give the local or other public agency an opportunity for a hearing.

(2) The provision in 34 CFR 76.401(b) (which exempts State agencies from having to offer an opportunity for a hearing under certain State-administered programs) does not apply to Public Library Construction grants.

(b) In providing opportunity for a hearing, the State library administrative agency shall follow the appropriate policies and procedures included in the State's long-range program for the Public Library Construction grant.

(20 U.S.C. 355c)

4. Part 771 is added to read as follows:

PART 771—THE LIBRARY SERVICES AND CONSTRUCTION ACT BASIC GRANTS TO INDIAN TRIBES AND HAWAIIAN NATIVES PROGRAM

Subpart A—General

Sec.

771.1 The Library Services and Construction Act Basic Grants to Indian Tribes and Hawaiian Natives Program.
771.2 Who is eligible to apply for a grant under the Basic Grants to Indian Tribes and Hawaiian Natives Program?
771.3 What regulations apply to the Basic Grants to Indian Tribes and Hawaiian Natives Program?
771.4 What definitions apply to the Basic Grants to Indian Tribes and Hawaiian Natives Program?

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

771.10 What types of projects may be funded under this program?

Subpart C—How Does One Apply for a Grant?

771.20 How does an Indian tribe or an organization primarily serving and representing Hawaiian natives apply for a basic grant?

Subpart D—How Does the Secretary Make an Award?

771.30 What factors does the Secretary consider in making an award?

Subpart E—What Conditions Must Be Met by a Grantee?

771.40 What are the financial obligations of a tribe that supports a public library system?

Authority: Library Services and Construction Act, Pub. L. 91-600, 84 Stat. 1660, as amended by the Library Services and Construction Act Amendments of 1984, Pub. L. 98-480, 98 Stat. 2236 (20 U.S.C. 351 *et seq.*), unless otherwise noted.

Subpart A—General

§ 771.1 The Library Services and Construction Act Basic Grants to Indian Tribes and Hawaiian Natives Program.

Under the Library Services and Construction Act Basic Grants to Indian Tribes and Hawaiian Natives Program—referred to in this part as the Basic Grants to Indian Tribes and Hawaiian Natives Program—the Secretary provides Federal financial assistance to establish or improve public library services for Indians residing on or near reservations and for Hawaiian natives.

(20 U.S.C. 351, 351c (c)(1), (d)(1), (d)(2); 361)

§ 771.2 Who is eligible to apply for a grant under the Basic Grants to Indian Tribes and Hawaiian Natives Program?

The following are eligible to apply for grants under the Basic Grants to Indian Tribes and Hawaiian Natives Program:

(a) Indian tribes, as defined in § 771.4(b).

(b) Organizations—

(1) Primarily serving and representing Hawaiian natives; and

(2) Recognized by the Governor of the State of Hawaii.

(20 U.S.C. 351, 351a (15), (16); 351c(d)(1), 361)

§ 771.3 What regulations apply to the Basic Grants to Indian Tribes and Hawaiian Natives Program?

(a) The following regulations apply to an Indian tribe or an organization primarily serving and representing Hawaiian natives that applies for a grant under the Basic Grants to Indian Tribes and Hawaiian Natives Program:

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 75 (Direct Grant Program), Part 77 (Definitions that Apply to Department Regulations), and Part 78 (Education Appeal Board).

(2) The regulations in this Part 771.

(b) An organization primarily serving and representing Hawaiian natives that applies for a grant under this part is also subject to 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(20 U.S.C. 351 *et seq.*)

§ 771.4 What definitions apply to the Basic Grants to Indian Tribes and Hawaiian Natives Program?

The following definitions apply to the Basic Grants to Indian Tribes and Hawaiian Natives Program:

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Contract
Department
EDGAR
Grant
Grantee
Project
Public
Secretary

(b) *Definitions that apply to this part.* The following definitions also apply to this part:

"Act" means the Library Services and Construction Act (Pub. L. 91-600), as amended by the Library Services and Construction Act Amendments of 1984 (Pub. L. 98-480).

"Hawaiian native" means an individual having an ancestor, who prior to 1778, was a native in the area that now comprises the State of Hawaii.

"Indian tribe."

(1)(i) This term means an Indian tribe, band, nation, or other organized group or community determined by the Secretary to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(ii) After consultation with the Secretary of the Interior, the Secretary has determined that, for purposes of this program, an Indian tribe means an Indian tribe, band, nation, or other organized group or community certified by the Secretary of the Interior as being eligible for Federal special programs and services.

(2) The term includes an Alaskan Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act.

"Library materials."

(1) This term means books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microforms, pictorial works, graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, processed video and magnetic tapes, and materials designed specifically for the handicapped.

(2) (i) The term also includes restricted collections of cultural materials of Indian tribes or Hawaiian natives, as appropriate.

(ii) "Restricted collection" means library materials not placed in general circulation.

(20 U.S.C. 351a, 362(c))

"Library service" means the performance of all activities of a library relating to—

(1) The collection and organization of library materials; and

(2) Making the materials and information of a library available to users.

"Public library."

(1) This term means a library that—

(i) Serves free of charge all residents of a community, district, or region; and

(ii) Receives its financial support in whole or in part from public funds.

(2) The term also includes a research library; that is, a library that—

(i) Makes its services available to the public free of charge;

(ii) Has extensive collections of books, manuscripts, and other materials that are—

(A) Suitable for scholarly research; and

(B) Not available to the public through public libraries;

(iii) Disseminates humanistic knowledge through services to readers, fellowships, educational and cultural programs, publication of significant research, and other activities; and

(iv) Is not an integral part of an institution of higher education.

"Public library services" means library services furnished by a public library free of charge.

(20 U.S.C. 351 *et seq.*)

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

§ 771.10 What types of projects may be funded under this program?

(a) The Secretary provides Federal financial assistance under this program to an Indian tribe to conduct one or more of the following projects:

(1) Assessment of tribal library needs.

(2) In-service or preservice training of Indians as library personnel.

(3) Salaries of library personnel.

(4) Purchase of library materials.

(5) Dissemination of information about library services.

(6) Transportation to enable Indians to have access to library services.

(7) Conduct of special library programs for Indians.

(8) Construction, purchase, renovation, or remodeling of library buildings, as described in paragraphs (c) and (d) of this section.

(9) Contracts to—

(i) Provide public library services to Indians living on or near reservations; or

(ii) Carry out any of the projects listed in paragraphs (a)(1) through (a)(8) of this section.

(b) The Secretary provides Federal financial assistance under this program to an organization primarily serving and representing Hawaiian natives to conduct one or more of the following projects:

(1) Assessment of library needs of Hawaiian natives.

(2) In-service or preservice training of Hawaiian natives as library personnel.

(3) Salaries of library personnel.

(4) Purchase of library materials.

(5) Dissemination of information about library services.

(6) Transportation to enable Hawaiian natives to have access to library services.

(7) Conduct of special library programs for Hawaiian natives.

(8) Construction, purchase, renovation, or remodeling of library buildings, as described in paragraphs (c) and (d) of this section.

(c) As used in paragraphs (a)(8) and (b)(8) of this section, "construction" includes the following:

(1) Construction of new buildings.

(2) Acquisition, expansion, remodeling, or alteration of existing buildings.

(3) (i) Initial equipment for any building referred to in paragraphs (c)(1) and (c)(2) of this section.

(ii) As used in paragraph (c)(3)(i) of this section, "equipment" includes the following:

(A) Machinery.

(B) Utilities.

(C) Built-in equipment.

(D) Enclosures or structures necessary to house the types of items listed in paragraphs (c)(3)(ii) (A) through (C) of this section.

(E) All other items necessary for the functioning of a particular facility as a facility for the provision of library services.

(4) Architectural services.

(5) Acquisition of land.

(6) Within public libraries, construction of spaces that—

(i) Provide shelter from nuclear fallout; and

(ii) Are constructed at a nominal cost as part of a larger project.

(7) Any combination of two or more of the activities referred to in paragraphs (c)(1) through (c)(6) of this section.

(d) As used in this part, "remodeling" includes the following:

(1) Remodeling to meet the standards of the Architectural Barriers Act of 1968.

(2) Remodeling designed to conserve energy.

(3) Renovation or remodeling to accommodate new technologies.

(4) Purchase of existing historic buildings for conversion to public libraries.

(20 U.S.C. 351a, 351c(d)(2), 362)

Subpart C—How Does One Apply for a Grant?

§ 771.20 How does an Indian tribe or an organization primarily serving and representing Hawaiian natives apply for a basic grant?

(a) To be considered for a basic grant under this program, an Indian tribe or an organization primarily serving and representing Hawaiian natives must submit to the Secretary an application containing the following:

(1) Information showing that the applicant is—

(i) An Indian tribe, as defined in § 771.4(b); or

(ii) An organization primarily serving and representing Hawaiian natives and recognized by the Governor of the State of Hawaii.

(2) A description of the project or projects—from among those listed in § 771.10 (a) or (b), as appropriate—the applicant proposes to conduct under its grant.

(3) A description of how the proposed project is likely to establish or improve public library services for—

(i) Indians living on or near a reservation; or

(ii) Hawaiian natives.

(4) In the case of an Indian tribe that supports a public library system, an assurance that the tribe will expend from Federal, State, and local sources an amount sufficient to meet the maintenance-of-effort requirement in § 771.40.

(b) Each year, through a notice published in the **Federal Register**, the Secretary notifies potential applicants of the closing date for the transmittal of applications.

(20 U.S.C. 351c (d)(1), (d)(2); 361, 362, 363)

Subpart D—How Does the Secretary Make an Award?

§ 771.30 What factors does the Secretary consider in making an award?

The Secretary awards a basic grant to an applicant if—

(a) The applicant meets the requirements of eligibility in § 771.2; and

(b) The Secretary determines that the application meets the requirements as § 771.20.

(20 U.S.C. 351c (c)(1), (d)(1), (d)(2); 351d(g)(1), 361(c), 363)

Subpart E—What Conditions Must Be Met by a Grantee?

§ 771.40 What are the financial obligations of a tribe that supports a public library system?

If an Indian tribe that receives a grant under this program supports a public library system, the tribe shall expend from Federal, State, and local sources for public library services an amount not less than the amount the tribe expended from those sources for public library services during the second year preceding the year for which the Secretary has approved a grant to the tribe under this program.

(20 U.S.C. 362(b))

5. Part 772 is added to read as follows:

PART 772—THE LIBRARY SERVICES AND CONSTRUCTION ACT SPECIAL PROJECTS GRANTS TO INDIAN TRIBES AND HAWAIIAN NATIVES PROGRAM

Subpart A—General

Sec.

772.1 The Library Services and Construction Act Special Projects Grants to Indian Tribes and Hawaiian Natives Program.
772.2 Who is eligible to apply for a grant under the Special Projects Grants to Indian Tribes and Hawaiian Natives Program?
772.3 What regulations apply to the Special Projects Grants to Indian Tribes and Hawaiian Natives Program?
772.4 What definitions apply to the Special Projects Grants to Indian Tribes and Hawaiian Natives Program?

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

772.10 What types of projects may be funded under this program?

Subpart C—How Does One Apply for a Grant?

772.20 How does an Indian tribe or an organization primarily serving and representing Hawaiian natives apply for a special projects grant?

Subpart D—How Does the Secretary Make an Award?

772.30 How does the Secretary evaluate an application?
772.31 What selection criteria does the Secretary use?

Subpart E—What Conditions Must Be Met by a Grantee?

772.40 What are the financial obligations of a grantee?
772.41 What are the additional financial obligations of a tribe that supports a public library system?

Subpart F—What Are the Administrative Responsibilities of a Grantee?

772.50 Who must administer funds under a special projects grant to an Indian tribe?

Authority: Library Services and Construction Act, Pub. L. 91-600, 84 Stat. 1660, as amended by the Library Services and Construction Act Amendments of 1984, Pub. L. 98-480, 98 Stat. 2236 (20 U.S.C. 351 *et seq.*), unless otherwise noted.

Subpart A—General

§ 772.1 The Library Services and Construction Act Special Projects Grants to Indian Tribes and Hawaiian Natives Program.

Under the Library Services and Construction Act Special Projects Grants to Indian Tribes and Hawaiian Natives Program—referred to in this part as the Special Projects Grants to Indian Tribes and Hawaiian Natives Program—the Secretary provides Federal financial assistance to establish or improve public library services for Indians residing on or near reservations and for Hawaiian natives.

(20 U.S.C. 351, 351c (c)(2), (d)(1), (d)(2); 361(d))

§ 772.2 Who is eligible to apply for a grant under the Special Projects Grants to Indian Tribes and Hawaiian Natives Program?

The following are eligible to apply for grants under the Special Projects Grants to Indian Tribes and Hawaiian Natives Program:

(a) Indian tribes, as defined in 34 CFR 771.4(b), that have received grants under the Library Services and Construction Act Basic Grants to Indian Tribes and Hawaiian Natives Program (34 CFR Part 771).

(b) Organizations that—

(1) Primarily serve and represent Hawaiian natives;

(2) Are recognized by the Governor of the State of Hawaii; and

(3) Have received grants under the Library Services and Construction Act Basic Grants to Indian Tribes and Hawaiian Natives Program (34 CFR Part 771).

(20 U.S.C. 351, 351a, 351c (c)(2), (d)(1), (d)(2); 361(d))

§ 772.3 What regulations apply to the Special Projects Grants to Indian Tribes and Hawaiian Natives Program?

(a) The following regulations apply to an Indian tribe or an organization primarily serving and representing Hawaiian natives that applies for a grant under the Special Projects Grants to Indian Tribes and Hawaiian Natives Program:

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 75 (Direct Grant Programs), Part 77 (Definitions that Apply to Department Regulations), and Part 78 (Education Appeal Board).

(2) The regulations in 34 CFR Part 771, as appropriate.

(3) The regulations in this Part 772.

(b) An organization primarily serving and representing Hawaiian natives that applies for a grant under this part is also subject to 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(20 U.S.C. 351 *et seq.*)

§ 772.4 What definitions apply to the Special Projects Grants to Indian Tribes and Hawaiian Natives Program?

The following definitions apply to the Special Projects Grants to Indian Tribes and Hawaiian Natives Program:

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Budget
Contract
Department
EDGAR
Equipment
Facilities
Grant
Grantee
Project
Public
Secretary
Supplies

(b) *Definitions in 34 CFR Part 771.* The following terms used in this part are defined in 34 CFR 771.4(b) (the Library Services and Construction Act Basic Grants to Indian Tribes and Hawaiian Natives Program):

Act
Hawaiian native
Indian tribe
Library materials, including restricted collections of cultural materials
Library service
Public library
Public library services

(c) *Definition that applies to this part.* The following definition also applies to this part:

"Librarian" means an individual with training or experience in providing or managing library services.

(20 U.S.C. 351, 351a, 362c)

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

§ 772.10 What types of projects may be funded under this program?

(a) The Secretary provides Federal financial assistance under this program to an Indian tribe to conduct one or more of the following projects:

(1) Assessment of tribal library needs.
(2) In-service or preservice training of Indians as library personnel.
(3) Salaries of library personnel.
(4) Purchase of library materials.
(5) Dissemination of information about library services.
(6) Transporation to enable Indians to have access to library services.
(7) Conduct of special library programs for Indians.
(8) Construction, purchase, renovation, or remodeling of library buildings, as described in paragraphs (c) and (d) of this section.
(9) Contracts to—
(i) Provide public library services to Indians living on or near reservations; or
(ii) Carry out any of the projects listed in paragraphs (a)(1) through (a)(8) of this section.
(b) The Secretary provides Federal financial assistance under this program to an organization primarily serving and representing Hawaiian natives to conduct one or more of the following projects:
(1) Assessment of library needs of Hawaiian natives.
(2) In-service or preservice training of Hawaiian natives as library personnel.
(3) Salaries of library personnel.
(4) Purchase of library materials.
(5) Dissemination of information about library services.
(6) Transporation to enable Hawaiian natives to have access to library services.
(7) Conduct of special library programs for Hawaiian natives.
(8) Construction, purchase, renovation, or remodeling of library buildings, as described in paragraphs (c) and (d) of this section.
(c) As used in paragraphs (a)(8) and (b)(8) of this section, "construction" includes the following:
(1) Construction of new buildings.
(2) Acquisition, expansion, remodeling, or alteration of existing buildings.
(3)(i) Initial equipment for any building referred to in paragraphs (c)(1) and (c)(2) of this section.
(ii) As used in paragraph (c)(3)(i) of this section, "equipment" includes the following:
(A) Machinery.
(B) Utilities.
(C) Built-in equipment.
(D) Enclosures or structures necessary to house the types of items listed in paragraphs (c)(3)(ii) (A) through (C) of this section.
(E) All other items necessary for the functioning of a particular facility as a facility for the provision of library services.
(4) Architectural services.
(5) Acquisition of land.
(6) Within public libraries, construction of spaces that—
(i) Provide shelter from nuclear fallout; and
(ii) Are constructed at a nominal cost as part of a larger project.
(7) Any combination of two or more of the activities referred to in paragraphs (c)(1) through (c)(6) of this section.
(d) As used in this part, "remodeling" includes the following:
(1) Remodeling to meet the standards of the Architectural Barriers Act of 1968.
(2) Remodeling designed to conserve energy.
(3) Renovation or remodeling to accommodate new technologies.
(4) Purchase of existing historic buildings for conversion to public libraries.

(20 U.S.C. 351a, 251c (c)(2), (d)(2); 361(d), 362; EO 11490, as amended)

Subpart C—How Does One Apply for a Grant?

§ 772.20 How does an Indian tribe or an organization primarily serving and representing Hawaiian natives apply for a special projects grant?

(a) To be considered for a special projects grant under this program, an Indian tribe or an organization primarily serving and representing Hawaiian natives must submit to the Secretary—
(1) A plan for the year for which the applicant is seeking Federal financial assistance; and
(2)(i) A long-range program; or
(ii) If the tribe or organization has a long-range program on file with the Secretary in conjunction with a grant under this program, an update, if necessary, of that long-range program.
(b)(1) The Secretary regards the plan as an application for Federal financial assistance under Subpart D of this part.
(2) The project or projects the applicant proposes to carry out in its plan must be from among those listed in § 772.10 (a) or (b), as appropriate.
(c) The long-range program must be a comprehensive program that—
(1) Covers a period of not fewer than three years and not more than five years;
(2) Contains a clear and concise description of objectives; and
(3) Includes the following:
(i) Identification of the need for public library services by—
(A) Indians living on or near a reservation; or
(B) Hawaiian natives.
(ii) Identification of the specific service or services needed.
(iii)(A) A description of the project or projects to be undertaken toward meeting those specifically identified needs with assistance under this program.
(B) The project or projects must be from among those listed in § 772.10 (a) or (b), as appropriate.
(d) Each year, through a notice published in the **Federal Register**, the Secretary notifies potential applicants of the closing date for the transmittal of applications.

(20 U.S.C. 351c (c)(2), (d)(2); 351d(g)(2), 361, 362, 364)

Subpart D—How Does the Secretary Make an Award?

§ 772.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 772.31.
(b) The Secretary awards up to 100 possible points for these criteria.
(c) The maximum possible score for each complete criterion is indicated in parentheses.

(20 U.S.C. 351c (c)(2), (d)(2); 351d(g)(2), 361(d), 364)

§ 772.31 What selected criteria does the Secretary use?

(a) *Plan of operation.* (15 points)
(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.
(2) The Secretary looks for information that shows—
(i) High quality in the design of the project;
(ii) An effective plan of management that insures proper and efficient administration of the project;
(iii) A clear description of how the objectives of the project relate to the purpose of the program;
(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and
(5) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—
(A) Members of racial or ethnic minority groups;
(B) Women;
(C) Handicapped persons; and
(D) The elderly.
(b) *Quality of key personnel.* (15 points)
(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine personnel qualifications, the Secretary considers experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost-effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan. (5 points)*

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. (See 34 CFR 75.590—Evaluation by the grantee.)

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Need.* (20 points)

(1) The Secretary reviews each application to determine the need for applicant to carry out the proposed public library services from among the projects listed in § 772.10 (a) or (b), as appropriate.

(2) In making this determination the Secretary considers—

(i) The needs to be addressed by the project, including the extent and severity of these needs as indicated by the number or percentage of individuals in the area to be served by the project who require the proposed library services;

(ii) A description of other library services in the area—including any offered by the applicant—that are designed to meet the same needs as those to be addressed by the project;

(iii) Evidence that these other library services are insufficient in quantity or quality or both, or an explanation of why they are not used by individuals who require the proposed public library services; and

(iv) A description of how the project is likely to meet these needs by establishing or improving public library services for—

(A) Indians living on or near a reservation; or

(B) Hawaiian natives.

(g) *Consistency with long-range program.* (20 points)

(1) The Secretary reviews each application for information that shows the consistency of the project with the applicant's long-range program submitted under § 772.20.

(2) The Secretary looks for information that shows—

(i) How the project is designed to help meet one or more of the specific needs identified in the long-range program; and

(ii) The extent to which the project is likely to meet one or more of the long-range objectives described in the program.

(h) *Community involvement.* (10 points)

(1) The Secretary reviews each application to determine the extent to which the individuals to be served and other members of the community are involved in the project.

(2) The Secretary looks for information that shows that individuals to be served and other members of the community—

(i) Were involved in planning and developing the project; and

(ii) Will be involved in operating and evaluating the project.

(20 U.S.C. 351c (c)(2), (d)(2); 351d(g)(2), 361(d), 364)

Subpart E—What Conditions Must Be Met by a Grantee?

§ 772.40 What are the financial obligations of a grantee?

A tribe that receives a grant under this program shall provide the difference between—

(a) The costs of carrying out the plan approved by the Secretary for that year; and

(b) The Federal allocation, which, in no case, exceeds 80 percent of the costs.

(20 U.S.C. 351e(c))

§ 772.41 What are the additional financial obligations of a tribe that supports a public library system?

If an Indian tribe that receives a grant under this program supports a public library system, the tribe shall expend from Federal, State, and local sources for public library services an amount not less than the amount the tribe expended from those sources for public library services during the second year preceding the year for which the Secretary has approved a grant to the tribe under this program.

(20 U.S.C. 362(b))

Subpart F—What Are the Administrative Responsibilities of a Grantee?

§ 772.50 Who must administer funds under a special projects grant to an Indian tribe?

Funds granted to an Indian tribe under this program must be administered by a librarian.

(20 U.S.C. 351c(c)(2))

[FR Doc. 85-11801 Filed 5-15-85; 8:45 am]

BILLING CODE 4000-01-M

federal register

Thursday
May 16, 1985

Part III

Department of Education

Office of Educational Research and Improvement

Application for New Awards Under the Library Services and Construction Act; Basic Grants to Indian Tribes and Hawaiian Natives Program and Library Services and Construction Act Special Projects Grants to Indian Tribes and Hawaiian Natives Program for Fiscal Year 1985; Notice

DEPARTMENT OF EDUCATION

Office of Educational Research and Improvement

Application for New Awards Under the Library Services and Construction Act; Basic Grants to Indian Tribes and Hawaiian Natives Program and Library Services and Construction Act Special Projects Grants to Indian Tribes and Hawaiian Natives Program for Fiscal Year 1985

AGENCY: Department of Education.

SUMMARY: Applications are invited for new projects for (1) Basic Grants and (2) Special Projects Grants authorized under sections 5(c) and 5(d) and Title IV of the Library Services and Construction Act, as amended by Pub. L. 98-480 (20 U.S.C. 351 *et seq.*).

The Secretary awards Basic Grants to (1) eligible Indian tribes that propose projects designed to establish or improve public library services for Indians residing on or near reservations, and (2) organizations primarily serving and representing Hawaiian natives, recognized by the Governor of Hawaii, that propose projects designed to establish or improve public library services for Hawaiian natives. After consultation with the Secretary of the Interior, the Secretary has determined that, for purposes of this program, an Indian tribe means an Indian tribe, band, nation, or other organized group or community certified by the Secretary of the Interior as being eligible for Federal special programs and services. Indian tribes and Hawaiian native organizations that have received Basic Grants are eligible to apply for Special Projects Grants on a competitive basis.

Closing Date for Transmittal of Applications

Applications for new awards must be mailed or hand delivered on or before July 15, 1985.

Proposed regulations for these programs are published in this issue of the **Federal Register**. If the Secretary makes changes in the final regulations that would affect the content of applications under this program, applicants will be allowed to amend or resubmit their applications.

Applications Delivered by Mail

Applications sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: (CFDA 84.163) 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of maling consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does note uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first-class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand

Applications that are hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building No. 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m., and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

Program Information

(1) Applicants for Basic Grants to Indian tribes and Hawaiian natives should note the application requirements in proposed §771.20.

(2) Indian tribes and Hawaiian native organizations that have received a Basic Grant are eligible to apply for Special Projects Grants. Applicants should note the application requirements in proposed §772.20 regarding a one-year project plan and a long-range program. Please note that under Title IV of the Library Services and Construction Act, grant funds are to be used to develop and improve public library services for Hawaiian natives or Indians residing on or near a reservation. Thus, applications for Basic and Special Project Grants that do not serve Hawaiian natives or Indians on or near a reservation will not be considered for funding.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review of and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographical area.

The State of Hawaii has established a process, has designated a single point of contact, and has selected this program for review.

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact Hawaii's single point of contact to find out about, and to comply with, the State's process under the Executive Order. The single point of contact for Hawaii is included in the application package for this program.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by September 15, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181, CFDA 84.163, 400 Maryland Avenue, SW., Washington, D.C. 20202. Proof of mailing will be determined on the same basis as applications.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

In Fiscal Year 1985 two percent (or $2,360,000) of the appropriation for LSCA Titles I, II, and III, was set aside for LSCA Title IV, Library Services for Indian Tribes and Hawaii Natives Program ($1,770,000 for Indian Tribes and $590,000 for Hawaiian natives).

Basic Grants

The average award is not expected to exceed $4,000 per eligible Indian tribe. One grant of up to $590,000 is expected to be awarded to serve Hawaiian natives. The grant period will begin October 1, 1985 and end on September 30, 1986.

Special Projects Grants

Prospective applicants under this grant category must be cognizant of the fact that if all eligible applicants apply and qualify for a Basic Grant, no funds will be available for Special Projects Grants. Should funds be available, awards will be made on a competitive basis in accordance with program regulations.

These estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Application Forms

Application forms and program information packages will be available by May 31, 1985, and may be obtained by writing to the Library Education, Research and Resources Branch, U.S. Department of Education, 400 Maryland Avenue, SW., Room 725, Brown Building, Washington, D.C. 20202–1630, Attention: LSCA Title IV.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid applicants in applying for assistance under this program. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed fifty pages. The Secretary urges that applicants not submit information that is not requested.

Applicable Regulations

The following regulations, when adopted in final form, will apply to these programs:

(a) For basic grants, the regulations governing the Library Services and Construction Act Basic Grants to Indian Tribes and Hawaiian Natives Program proposed to be codified in 34 CFR Part 771.

(b) For special projects grants, the regulations governing the Library Services and Construction Act Special Projects Grants to Indian Tribes and Hawaiian Natives Program proposed to be codified in 34 CFR Part 772.

In addition, the Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 78 and 79 apply to Basic Grants and Special Projects Grants.

Further Information

For further information contact Frank A. Stevens, Chief, or Beth P. Fine, Education Program Specialist, Division of Library Programs, Library Education, Research and Resources Branch, Room 725, Brown Building, 400 Maryland Avenue, SW., Washington, D.C. 20202–1630. Telephone: (202) 254–5090.

(20 U.S.C. 351 *et seq.*)

(Catalog of Federal Domestic Assistance Number 84.163, Basic Grants to Indian Tribes and Hawaiian Natives Program and Special Projects Grants to Indian Tribes and Hawaiian Natives Program)

Dated: May 13, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85–11800 Filed 5–15–85; 8:45 am]

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Thursday, May 16, 1985

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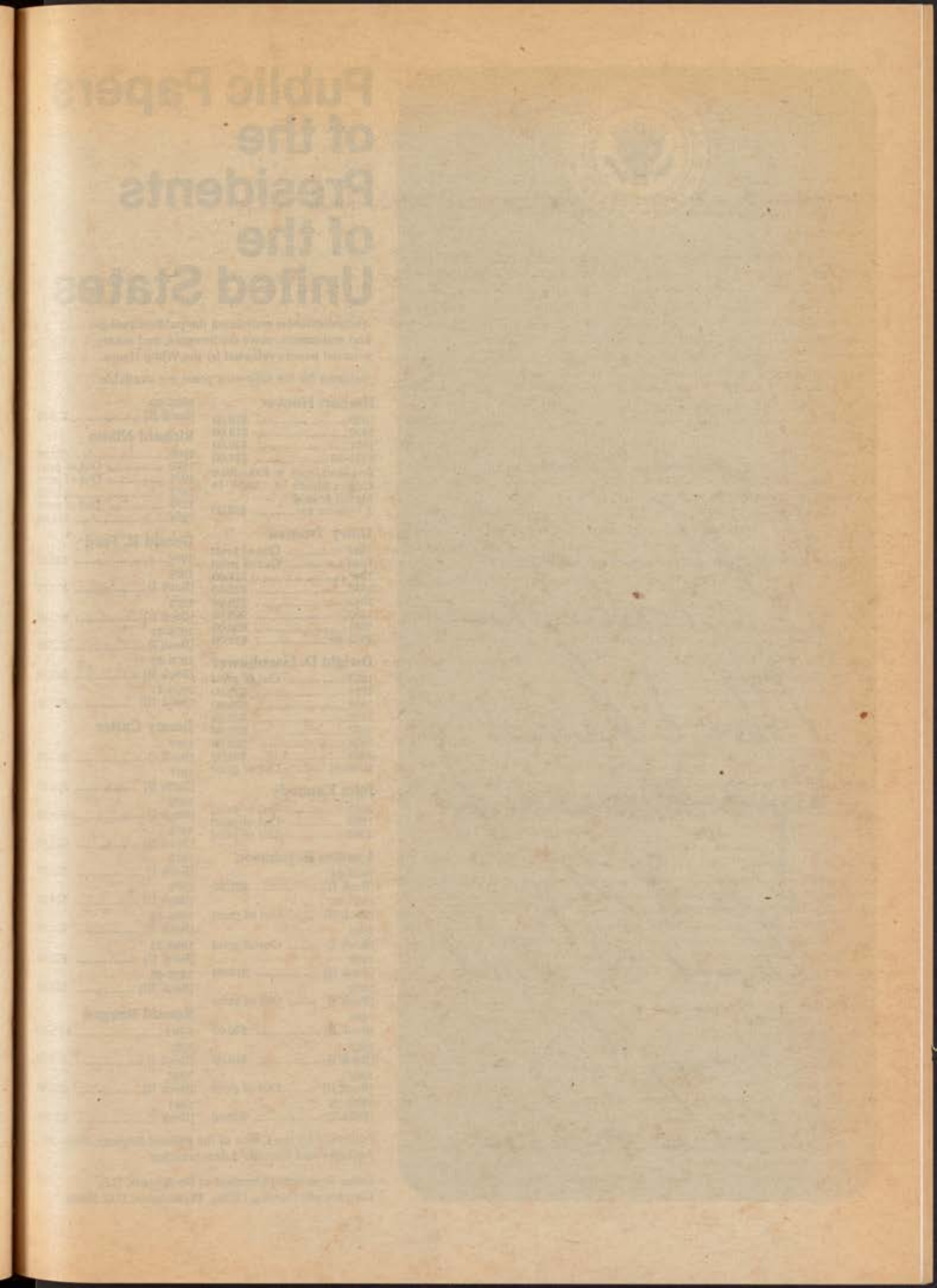
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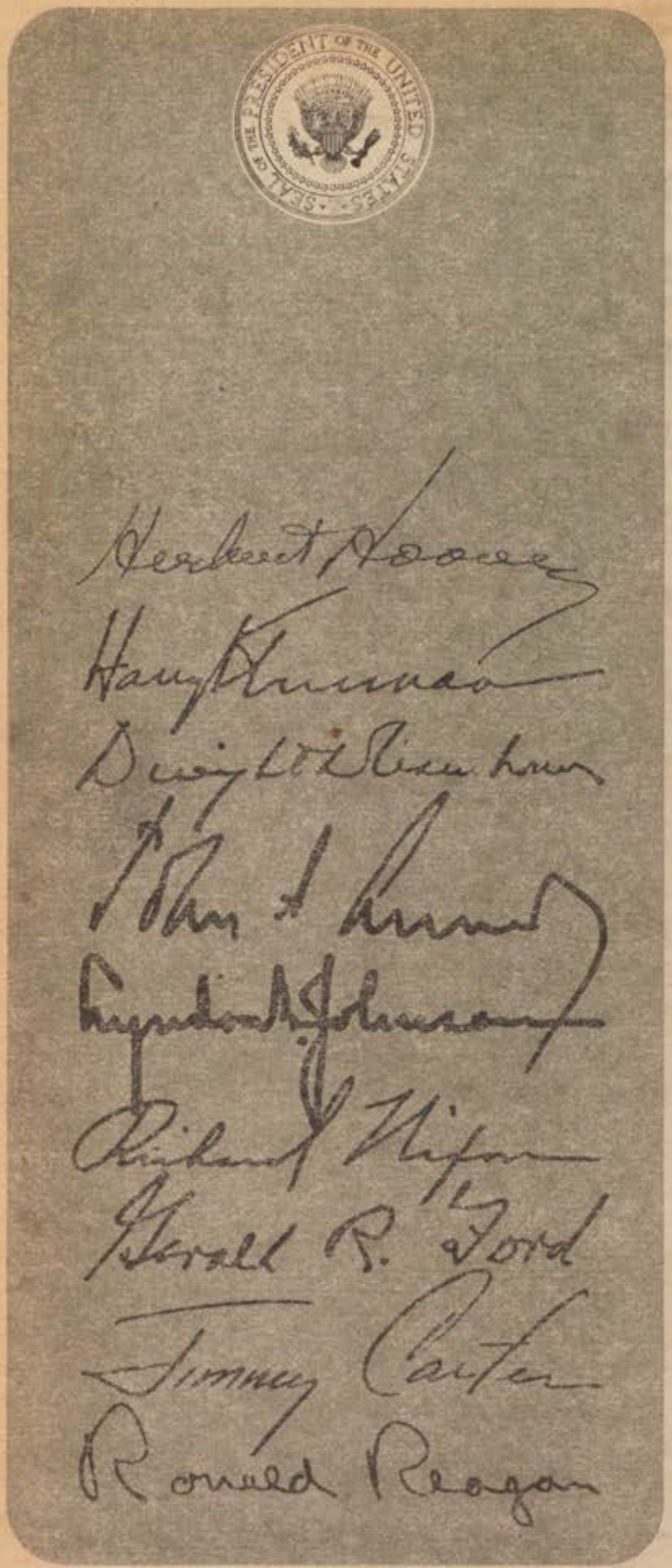
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